S. HRG. 100-795

HOUSING ASSISTANCE FOR INDIANS AND ALASKA NATIVES

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS UNITED STATES SENATE

ONE HUNDREDTH CONGRESS

SECOND SESSION

ON

S. 1987

TO AMEND THE UNITED STATES HOUSING ACT OF 1937 TO ESTABLISH A SEPARATE PROGRAM TO PROVIDE HOUSING ASSISTANCE FOR INDIANS AND ALASKA NATIVES

APRIL 20, 1988
WASHINGTON, DC

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CONTENTS

Page

S. 1987, text of 3

Statements:

- Allen, Michael, president, Lac du Flambeau Band of Chippewas, Lac du Flambeau, WI 81
- Anoatubby, Bill, Governor, Chickasaw Nation of Oklahoma, Ada, OK 83
- Beirne, Kenneth J., Assistant Secretary for Policy Development and Research, Department of Housing and Urban Development, Washington, DC 99
- Black Elk, Charlotte, Commissioner, Oglala Sioux Tribal Housing Authority, Pine Ridge, SD 62
- Colegrove, Wilfred K., chairman, Hoopa Valley Tribe of California 96
- Garcia, Hilda, chairperson, Association of Eastern Indian Housing Authorities representing the United South and Eastern Tribes, Nashville, TN 92
- Inouye, Hon. Daniel K., U.S. Senator from Hawaii, chairman, Select Committee on Indian Affairs 1
- Jourdain, Roger, chairman, Red Lake Band of Chippewa Indians, Red Lake, IN 76
- Key, Ted, executive director, Chickasaw Nation Housing Authority, Ada, OK 85
- Laban, Joseph, director, Hopi Tribal Housing Authority, Second Mesa, AZ 67
- Spencer, Virginia, executive director, National American Indian Housing Council, Washington, DC 58
- Thompson, Fred, director, Navajo Housing Authority, Window Rock, AZ... 62
- White Tail Feather, Raymond, chairman, Assiniboine and Sioux Tribes of the Fort Peck Reservation, Poplar, MT 86
- Wilson, Harold O., executive director, Housing Assistance Council, Washington, DC 94

APPENDIX

Prepared statements:

- Allen, Michael, president, Lac du Flambeau Band of Chippewas, Lac du Flambeau, WI 182
- Anoatubby, Bill, Governor, Chickasaw Nation of Oklahoma, Ada, OK 187
- Aubertin, Lula, Colville Indian Housing Authority 232
- Beirne, Kenneth J 224
- Bouschor, Bernard, chairman, Sault Ste. Marie Tribe of Chippewa Indians 234
- Colegrove, Wilfred K 212
- Cranston, Hon. Alan, U.S. Senator from California 108
- Cummings, Newton, chairman, Oglala Sioux Housing Authority 119
- Gaavig, George, executive director, Red Lake Reservation Housing Authority 155
- Garcia, Hilda 197
- Iron, Tom, chairman, Housing Board of the Standing Rock Housing Authority 254
- Jourdain, Roger 155
- Key, Ted 190
- Laban, Joseph (with attachments) 141
- Lunderman, Alex, president, Rosebud Sioux Tribe 262
- Nolan, George, Commissioner, Sault Ste. Marie Tribe of Chippewa Indians Housing Authority 234

Page

Prepared statements—Continued
- Spencer, Virginia (with attachments) ... 109
- Thompson, Fred (with attachments) ... 129
- White Tail Feather, Raymond ... 193
- Wilson, Harold O ... 201

Additional material submitted for the record:
- Questions and answers ... 264

HOUSING ASSISTANCE FOR INDIANS AND ALASKA NATIVES

WEDNESDAY, APRIL 20, 1988

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 9:10 a.m., in room 485, Russell Senate Office Building, Hon. Daniel K. Inouye (chairman of the committee) presiding.

Present: Senators Inouye, Daschle, Murkowski, and McCain.

STATEMENT OF HON. DANIEL K. INOUYE, U.S. SENATOR FROM HAWAII, CHAIRMAN, SELECT COMMITTEE ON INDIAN AFFAIRS

The CHAIRMAN. The committee will please come to order.

Good morning. This morning the Select Committee on Indian Affairs will receive testimony from an impressive agenda of witnesses on S. 1987, a bill to amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives.

Over the past 3 years, Indian tribes and Indian housing authorities have urged Congress and the Administration to take necessary steps to codify the existing Indian Housing program, within the Department of Housing and Urban Development, as a separate program, while retaining it under the United States Housing Act of 1937.

It was not until the early 1960's that Indian tribes were deemed eligible to participate in HUD's Public Housing program. Since that time, HUD has been the primary source of housing assistance to Indian families. Whenever amendments were made to the 1937 act, those amendments were made applicable to the entire Public Housing program, including the Indian Housing program, regardless of the appropriateness or relevancy to factors that existed on Indian reservations and Indian areas. This has resulted in difficulties in the management and development of Indian Housing programs.

It is well documented that problems associated with the administration of the Indian Housing programs are numerous, complex, and difficult. Simplification of the entire Indian Housing program is a must if HUD and the Indian Housing authorities are to efficiently manage their responsibilities. S. 1987 is a first step in bringing about necessary changes in this important program.

The witnesses this morning include Indian Housing program administrators, tribal chairmen, housing advocacy organizations, and the Department of Housing and Urban Development.

[Text of S. 1987 follows:]

II

100TH CONGRESS
1ST SESSION

S. 1987

To amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives.

IN THE SENATE OF THE UNITED STATES

DECEMBER 21 (legislative day, DECEMBER 15), 1987

Mr. INOUYE (for himself, Mr. EVANS, Mr. MCCAIN, Mr. BURDICK, Mr. DASCHLE, and Mr. DECONCINI) introduced the following bill; which was read twice and referred to the Select Committee on Indian Affairs

---

A BILL

To amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Housing Act of 1987".

SEPARATION PROPOSAL

SEC. 2. (a) The United States Housing Act of 1937 is amended—

(1) by adding at the end thereof the following new title:

"TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

"DECLARATION OF POLICY

"SEC. 201. It is the policy of the United States to promote the general welfare of Indian tribes by employing its funds and credit, as provided under this title, to assist the several tribes to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe, and sanitary dwellings for families of lower income and, consistent with the objectives of this title, to vest Indian housing authorities the maximum amount of responsibility in the administration of their housing programs. No person may be barred from serving on the board of directors or similar governing body of an Indian housing authority because of his or her tenancy in a lower income housing project.

"RENTAL PAYMENTS; DEFINITIONS

"SEC. 202. (a)(1) Dwelling units assisted under this title shall be rented only to families who are lower income families at the time of their initial occupancy of such units. Reviews of family income shall be made at least annually.

"(2) A family shall pay as rent for a dwelling unit assisted under this title (other than a family assisted under the Mutual Help Homeownership Program) the highest of the following amounts, rounded to the nearest dollar:

"(A) 20 per centum of the family's monthly adjusted income;

"(B) 10 per centum of the family's monthly income; or

"(C) if the family is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the family's actual housing costs, is specifically designated by such agency to meet the family's housing costs, the portion of such payments which is so designated.

"(3) Any Indian housing authority may provide that each family residing in an Indian housing project owned and operated by such authority shall pay as monthly rent an amount determined by such authority to be appropriate that does not exceed a maximum amount that—

"(A) is established by such authority and approved by the Secretary;

"(B) is not more than the amount payable as rent by such family under paragraph (1); and

"(C) is not less than whichever of the following is lower:

"(i) The average monthly amount of debt service and operating expenses attributable to dwelling units of similar size in Indian housing projects owned and operated by such authority.

"(ii) The fair market rentals established in the housing area for dwelling units under section 8(b)(1).

"(4) A family participating under a Mutual Help Homeownership Program that contributes labor, land, materials or cash to the development of such projects shall make monthly payments for its units in an amount established by the Indian housing authority and approved by the Secretary.

"(b) When used in this title:

"(1) The term 'lower income housing' means decent, safe, and sanitary dwellings assisted under this title. The term 'Indian housing' means lower income housing, and all necessary appurtenances thereto, assisted under this title. When used in reference to Indian housing, the term 'lower income housing project' or 'project' means (A) housing developed, acquired, or assisted by an Indian housing authority under this title, and (B) the improvement of any such housing.

"(2) The term 'lower income families' means those families whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes. The term 'very low-income families' means lower income families whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's finding that such variations are necessary because of unusually high or low family incomes.

"(3) The term 'families' includes families consisting of a single person in the case of (A) a person who is at least sixty-two years of age or is under a disability as defined in section 223 of the Social Security Act, has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001), or is handicapped, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations issued by the Secretary. In no event shall more than 15 per centum of the units under the jurisdiction of any Indian housing authority be occupied by single persons under clause (D). In determining priority for admission to housing under this title, the Secretary shall give preference to those single persons who are elderly, handicapped, or displaced before those eligible under clause (D). The term 'elderly families' means families whose heads (or their spouses), or whose sole members, are persons described in clause (A). A person shall be considered handicapped if such person is determined, pursuant to regulations issued by the Secretary, to have an impairment which is expected to be of long-continued and indefinite duration, substantially impedes such person's ability to live independently, and is of such a nature that such ability could be improved by more suitable housing conditions. The term 'displaced person' means a person displaced by governmental actions, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized pursuant to Federal disaster relief laws. Notwithstanding the preceding provisions of this subsection, the term 'elderly families' includes two or more elderly, disabled, or handicapped individuals living together, or one or more such individuals living with one or more persons determined under regulations issued by the Secretary to be essential to their care or well-being. The Secretary may increase the limitation described in the second sentence of this paragraph to not more than 30 per centum if, following consultation with the Indian housing authority involved, the Secretary determines that the dwelling units involved are neither being occupied nor are likely to be occupied within the next twelve months by families or persons described in clauses (A), (B), and (C), due to the condition or location of such dwelling units, and that such dwelling units may be occupied if made available to single persons described in clause (D).

"(4) The term 'income' means income from all sources of each member of the household, as determined in accordance with criteria prescribed by the Secretary.

"(5) The term 'adjusted income' means the income which remains after excluding—

"(A) four hundred and eighty dollars for each member of the family residing in the household (other than the head of the household or his spouse) who is under eighteen years or older and is disabled or handicapped or a full-time student;

"(B) four hundred dollars for an elderly family;

"(C) the amount by which the aggregate of the following expenses of the family exceeds 3 per centum of annual family income: (i) medical expenses for an elderly family; and (ii) reasonable attendant care and auxiliary apparatus expenses for each handicapped member of any family, to the extent necessary to enable any member of such family (including such handicapped member) to be employed; and

"(D)(i) child care expenses to the extent necessary to enable another member of the family to be employed or to further his or her education or (ii) excessive travel expenses, not to exceed twenty-five dollars per family per week for employment or education related travel.

"(6) The term 'Indian housing authority' means an Indian housing authority, which services an Indian tribe as defined in paragraph (7), established (A) by exercise or tribal power of self-government independent of State law, or (B) by operation of State law providing specifically for housing authorities for Indians.

"(7) The term 'Indian tribe' includes any Indian tribes, bands, groups, or Nations, including Alaska Indians, Aleuts, and Eskimos of the United States.

"(8) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(c) When used in reference to Indian housing:

"(1) The term 'development' means any or all undertakings necessary for planning, land acquisition, demolition, construction, or equipment, in connection with a lower income housing project. The term 'development cost' comprises the costs incurred by an Indian housing authority in such undertakings and their necessary financing (including the payment of carrying charges), and in otherwise carrying out the development of such project. Construction activity in connection with a lower income housing project may be confined to the reconstruction, remodeling, or repair of existing buildings.

"(2) The term 'operation' means any or all undertakings appropriate for management, operation, services, maintenance, security (including the cost of security personnel), or refinancing in connection with a lower income housing project. The term also means the financing of tenant programs and services for families residing in lower income housing projects, particularly where there is maximum feasible participation of the tenants in the development and operation of such tenant programs and services. As used in this paragraph, the term 'tenant programs and services' includes the development and maintenance of tenant organizations which participate in the management of lower income housing projects, the training of tenants to manage and operate such projects and the utilization of their services in project management and operation; counseling on household management, housekeeping, budgeting, money management, child care, and similar matters; advice as to resources for job training and replacement, education, welfare, health, and other community services; services which are directly related to meeting tenant needs and providing a wholesome living environment; and referral to appropriate agencies in the community when necessary for the provision of such services. To the maximum extent available and appropriate, existing public and private agencies in the community shall be used for the provision of such services.

"(3) The term 'acquisition cost' means the amount prudently required to be expended by an Indian housing authority in acquiring property for a lower income housing project.

"LOANS FOR LOWER INCOME HOUSING PROJECTS

"SEC. 203. (a) The Secretary may make loans or commitments to make loans to Indian housing authorities to help finance or refinance the development, acquisition, or operation of lower income housing projects by such authorities. Any contract for such loans and any amendment to a contract for such loans shall provide that such loans shall bear interest at a rate specified by the Secretary which shall not be less than a rate determined by the Secretary of the Treasury taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loans, plus one-eighth of 1 per centum. Such loans shall be secured in such manner and shall be repaid within such period not exceeding forty years, or not exceeding forty years from the date of the bonds evidencing the loan, as the Secretary may determine. The Secretary may require loans or commitments to make loans under this section to be pledged as security for obligations issued by a Indian housing authority in connection with a lower income housing project.

"(b) The Secretary may issue and have outstanding at any one time notes and other obligations for purchase by the Secretary of the Treasury in an amount necessary to carry out the functions of this section. For purpose of determining obligations incurred to make loans pursuant to this Act against any limitation otherwise applicable with respect to such loans, the Secretary shall estimate the maximum amount to be loaned at any one time pursuant to loan agreements then outstanding with Indian housing authority. Such notes or other obligations shall be in such forms and denominations and shall be subject to such terms and conditions as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. The notes or other obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any notes or other obligations of the Secretary issued hereunder and for such purpose is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchases of such obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him or her under this section. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

"(c)(1) At such times as the Secretary may determine, and in accordance with such accounting and other procedures as the Secretary may prescribe, each loan made by the Secretary under sections 4(a) or 203(a) of this Act to an Indian housing authority that has any principal amount outstanding or any interest amount outstanding or accrued shall be forgiven; and the terms and conditions of any contract, or any amendment to a contract, for such loans with respect to any promise to repay such principal and interest shall be canceled. Such cancellation shall not affect any other terms and conditions of such contract which shall remain in effect as if the cancellation had not occurred. This paragraph shall not apply to any loan the repayment of which was not to be made using annual contributions, or to any loan all or part of the proceeds of which are due an Indian housing authority from contractors or others.

"(2)(A) Each note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant to sections 4(b) or 203(b) of this Act for the benefit of Indian housing authorities, together with any promise to repay the principal and interest that has accrued on each note or obligation, shall be forgiven; and any other term or condition specified by each such obligation shall be canceled.

"(B) On September 30, 1987, and on any subsequent September 30, each such note or other obligation issued by the Secretary to the Secretary of the Treasury pursuant sections 4(b) or 203(b) of this Act for the benefit of an Indian housing authority during the fiscal year ending on such date, together with any promise to repay the principal and interest that has accrued on each note or obligation, shall be forgiven, and any other term or condition specified by each such obligation shall be canceled.

"(3) Any amount of budget authority (and contract authority) that becomes available during any fiscal year as a result of the forgiveness of any loan, note, or obligation under this subsection shall be rescinded.

"CONTRIBUTIONS FOR LOWER INCOME HOUSING PROJECTS

"SEC. 204. (a)(1) The Secretary may make annual contributions to Indian housing authorities to assist in achieving and maintaining the lower income character of their projects. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payment. The contribution payable annually under this section shall in no case exceed a sum equal to the annual amount of principal and interest payable on obligations issued by the Indian housing authority to finance the development or acquisition cost of the lower income project involved. Annual contributions payable under this section shall be pledged, if the Secretary so requires, as security for obligations issued by an Indian housing authority to assist the development or acquisition of the project to which annual contributions relate and shall be paid over a period not to exceed forty years. The Secretary shall not enter into a contract guaranteeing the payment of annual contributions under this section with respect to Indian housing projects, except with respect to a project for which funding has been reserved before October 1, 1987.

"(2) On and after October 1, 1987, the Secretary may only make one-time capital contributions to Indian housing authorities to cover the development cost of Indian housing projects. The contract under which such contributions shall be made shall specify the amount of capital contributions required for each project to which the contract pertains and the period (not to exceed forty years) during which the terms and conditions of such contract shall remain in effect.

"(3) The amount of contributions which would be established for a newly constructed project by an Indian housing authority designed to accommodate a number of families of a given size and kind may be established under this section for a project by such Indian housing authority which would provide housing for the comparable number, sizes, and kinds of families through the acquisition and rehabilitation, or use under lease, of structures which are suitable for lower income housing use and obtained in the local market.

"(b) The Secretary may prescribe regulations fixing the maximum contributions available under different circumstances, giving consideration to cost, location, size, rent-paying ability of prospective tenants, or other factors bearing upon the amounts and periods of assistance needed to achieve and maintain low rentals. Such regulations may provide for rates of contribution based upon development, acquisition, or operation costs, number of dwelling units, number of persons housed, interest charges, or other appropriate factors.

"(c)(1) The Secretary may enter into contracts for annual contributions. The authority to enter into such contracts shall be effective only in such amounts as may be approved in appropriation Acts.

"(2) The Secretary shall enter into only such new contracts for preliminary loans as are consistent with the number of dwelling units for which contracts for annual contributions may be entered into.

"(3) The full faith and credit of the United States is solemnly pledged to the payment of all annual contributions contracted for pursuant to this section, and there are hereby authorized to be appropriated in each fiscal year, out of any money in the Treasury not otherwise appropriated, the amounts necessary to provide for such payments.

"(4) All payments of annual contributions pursuant to this section shall be made out of any funds available for purposes of this title when such payments are due, except that funds obtained through the issuance of obligations pursuant to section 203(b) (including repayments or other realizations of the principal of loans made out of such funds) shall not be available for the payment of such annual contributions.

"(5) During such period as the Secretary may prescribe for starting construction, the Secretary may approve the conversion of Indian housing development authority for use under section 209 or for use for the acquisition and rehabilitation of property to be used in Indian housing, if the Indian housing agency, after consultation with the tribe, certifies that such assistance would be more effectively used for such purpose, and if the total number of units assisted will not be less than 90 per centum of the units covered by the original reservation.

"(d) Any contract for loans or annual contributions, or both, entered into by the Secretary with an Indian housing authority, may cover one or more than one lower income housing project owned by such Indian housing authority; in the event the contract covers two or more projects, such projects may, for any of the purposes of this title and of such contract (including, but not limited to, the determination of the amount of the loan, annual contributions, or payments in lieu of taxes, specified in such contract), be treated collectively as one project.

"(e) In recognition that there should be local determination of the need for lower income housing—

"(1) the Secretary shall not make any contract with an Indian housing authority for preliminary loans (all of which shall be repaid out of moneys which become available to such agency for the development of the projects involved) for surveys and planning in respect to any lower income housing projects (i) unless the tribe involved by resolution approved the application of the Indian housing authority for such preliminary loan, and (ii) unless the Indian housing authority has demonstrated to the satisfaction of the Secretary that there is need for such lower income housing; and

"(2) the Secretary shall not make any contract for loans (other than preliminary loans) or for contributions pursuant to this title unless the tribe involved has entered into an agreement with the Indian housing authority providing for the local cooperation required by the Secretary pursuant to this Act.

"(f) Subject to the specific limitations or standards in this Act governing the terms of sales, rentals, leases, loans, contracts for annual contributions, or other agreements, the Secretary may, whenever the Secretary deems it necessary or desirable in the fulfillment of the purposes of this Act, consent to the modification, with respect to rate of interest, time of payment of any installment of principal or interest, security, amount of annual contribution, or any other term, of any contract or agreement of any kind to which the Secretary is a party. When the Secretary finds that it would promote economy or be in the financial interest of the Federal Government or is necessary to assure or maintain the lower income character of the project or projects involved, any contract heretofore or hereafter made for annual contributions, loans, or both, may be amended or superseded by a contract entered into by mutual agreement between the Indian housing authority and the Secretary. Contracts may not be amended or superseded in a manner which would impair the rights of the holders of any outstanding obligations of the Indian Housing authority involved for which annual contributions have been pledged. Any rule of law contrary to this provision shall be deemed inapplicable.

"(g) In addition to the authority of the Secretary under subsection (a) to pledge annual contributions as security for obligations issued by an Indian housing authority, the Secretary is authorized to pledge annual contributions as a guarantee of payment by an Indian housing authority of all principal and interest on obligations issued by it to assist the development or acquisition of the project to which the annual contributions relate, except that no obligation shall be guaranteed under this subsection if the income thereon is exempt from Federal taxation.

"(h) Notwithstanding any other provision of law, an Indian housing authority may sell a lower income housing project to its lower income tenants, on such terms and conditions as the authority may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions authorized under subsection (a) of this section.

"(i) In entering into contracts for assistance with respect to newly constructed or substantially rehabilitated projects under this section, the Secretary shall require the installation of a passive or active solar energy system in any such project where the Secretary determines that such installation would be cost effective over the estimated life of the system.

"CONTRACT PROVISIONS AND REQUIREMENTS

"SEC. 205. (a) The Secretary may include in any contract for loans, capital contributions, sale, lease, mortgage, or any other agreement or instrument made pursuant to this title, such covenants, conditions, or provisions as the Secretary may deem necessary in order to insure the lower income character of the project involved. Any such contract may contain a condition requiring the maintenance of an open space or playground in connection with the housing project involved if deemed necessary by the Secretary for the safety or health of children. Any such contract shall require that, except in the case of housing predominantly for the elderly, high-rise elevator projects shall not be provided for families with children unless the Secretary makes a determination that there is no practical alternative.

"(b) Every contract for contributions shall provide that—

"(1) the Secretary may require the Indian housing authority to review and revise its maximum income limits if the Secretary determines that changed conditions in the locality make such revision necessary in achieving the purposes of this title;

"(2) the Indian housing authority shall determine, and so certify to the Secretary, that each family in the project was admitted in accordance with duly adopted regulations and approved income limits; and the Indian housing authority shall review the incomes of families living in the project no less frequently than annually;

"(3) the Indian housing authority shall promptly notify (A) any applicant determined to be ineligible for admission to the project of the basis for such determination and provide the applicant upon request, within a reasonable time after the determination is made, with an opportunity for an informal hearing on such determination, and (B) any applicant determined to be eligible for admission to the project of the approximate date of occupancy insofar as such date can be reasonably determined; and

"(4) the Indian housing authority shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to—

"(A) except for projects or portions of projects specifically designated for elderly families with respect to which the Secretary has determined that application of this clause would result in excessive delays in meeting the housing need of such families, the establishment of tenant selection criteria which gives preference to families which occupy substandard housing or are involuntarily displaced at the time they are seeking assistance under this title or are paying more than 50 per centum of family income for rent and which is designated to assure that, within a reasonable period of time, the project will include families with a broad range of incomes and will avoid concentrations of lower income and deprived families with serious social problems, but this shall not permit maintenance of vacancies to await higher income tenants where lower income tenants are available;

"(B) the establishment of satisfactory procedures designed to assure the prompt payment and collection of rents and the prompt processing of evictions in the case of nonpayment of rent;

"(C) the establishment of effective tenant-management relationships designated to assure that satisfactory standards of tenant security and project maintenance are formulated and that the Indian housing authority (together with tenant councils where they exist) enforces those standards fully and effectively; and

"(D) the development by local housing authority managements of viable homeownership opportunity programs for lower income families capable of assuming the responsibilities of homeownership.

"(c) Every contract for contributions with respect to a lower income housing project shall provide that no contributions by the Secretary shall be made available for such project unless such project (exclusive of any portion thereof which is not developed or assisted by contributions under this title) is exempt from all real and personal property taxes levied or imposed by the State, tribe, city, county, or other political subdivision; and such contract shall require the Indian housing authority to make payments in lieu of taxes equal to 10 per centum of the sum of the shelter rents charged in such project, or such lesser amount as (i) is prescribed by State or tribal law, or (ii) is agreed to by the tribe in its agreement for local cooperation with the Indian housing authority required under section 204(e)(2) of this title, or (iii) is due to failure of a tribal body or tribes other than the Indian housing authority to perform any obligation under such agreement. If any such project is not exempt from all real and personal property taxes levied or imposed by the State, tribe, city, county, or other political subdivision, such contract shall provide, in lieu of the requirement for tax exemption and payments in lieu of taxes, that no contributions by the Secretary shall be made available for such project unless and until the State, tribe, city, county, or other political subdivision in which such project is situated shall contribute, in the form of cash or tax remission, the amount by which the taxes paid with respect to the project exceed 10 per centum of the shelter rents charged in such project.

"(d) Every contract for contributions shall provide that whenever in any year the receipts of an Indian housing authority in connection with a lower income housing project exceed its expenditures (including debt service, operation, maintenance, establishment of reserves, and other costs and charges), an amount equal to such excess shall be applied, or set aside for application, to purposes which, in the determination of the Secretary, will effect a reduction in the amount of subsequent contributions.

"(e) Every contract for contributions (including contracts which amend or supersede contracts previously made) may provide that—

"(1) upon the occurrence of a substantial default in respect to the covenants or conditions to which the Indian housing authority is subject (as such substantial default shall be defined in such contract, the Indian housing authority shall be obligated at the option of the Secretary either to convey title in any case where, in the determination of the Secretary (which determination shall be final and conclusive), such conveyance of title is necessary to achieve the purposes of this title, or to deliver to the Secretary possession of the project, as then constituted, to which such contract relates; and

"(2) the Secretary shall be obligated to reconvey or redeliver possession of the project, as constituted at the time of reconveyance or redelivery, to such Indian housing authority or to its successor (if such Indian housing authority or a successor exists) upon such terms as shall be prescribed in such contract, and as soon as practicable (A) after the Secretary is satisfied that all defaults with respect to the project have been cured, and that the project will, in order to fulfill the purpose of this title, thereafter be operated in accordance with the terms of such contract; or (B) after the termination of the obligation to make annual contributions available unless there are any obligations or covenants of the Indian housing authority to the Secretary which are then in default. Any prior conveyances and reconveyances or deliveries and redeliveries of possession shall not exhaust the right to require a conveyance or delivery of possession of the project to the Secretary pursuant to paragraph (1) upon the subsequent occurrence of a substantial default. Whenever such a contract for annual contributions includes provisions which the Secretary in such contract determines are in accordance with this subsection, and the portion of the contribution payable for debt service requirements pursuant to such contract has been pledged by the Indian housing authority as security for the payment of the principal and interest on any of its obligations, the Secretary (notwithstanding any other provision of this title) shall continue to make such contributions available for the project so long as any of such obligations remain outstanding, and may covenant in such contract that in any event such contributions shall in each year be at least equal to an amount which, together with such income or other funds as are actually available from the project for the purpose at the time such contribution is made, will suffice for the payment of all installments, falling due within the next succeeding twelve months, of principal and interest on the obligations for which the contributions provided for in the contract shall have been pledged as security. In no case shall such contributions be in excess of the maximum sum specified in the contract involved, nor for longer than the remainder of the maximum period fixed by the contract.

"(f) In entering into commitments for the development of Indian housing, the Secretary shall give a priority to projects for the construction, acquisition, or acquisition and rehabilitation of housing suitable for occupancy by families requiring three or more bedrooms.

"(g) The Secretary shall by regulation require each Indian housing authority receiving assistance under this title to establish and implement an administrative grievance procedure under which tenants will—

"(1) be advised of the specific grounds of any proposed adverse Indian housing authority action;

"(2) have an opportunity for a hearing before an impartial party upon timely request within any period applicable under subsection (h);

"(3) have an opportunity to examine any documents or records or regulations related to the proposed action;

"(4) be entitled to be represented by another person of his or her choice at any hearing;

"(5) be entitled to ask questions of witnesses and have others make statements on his or her behalf; and

"(6) be entitled to receive a written decision by the Indian housing authority on the proposed action.

An Indian housing authority may exclude from its procedure any grievance concerning an eviction or termination of tenancy in any jurisdiction which requires that, prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the basic elements of due process.

"(h) Each Indian housing authority shall use leases which—

"(1) do not contain unreasonable terms and conditions;

"(2) obligate the Indian housing authority to maintain the project in a decent, safe, and sanitary condition;

"(3) require the Indian housing authority to give adequate written notice of termination of the lease which shall not be less than—

"(A) a reasonable time, but not to exceed thirty days, when the health or safety of other tenants or Indian housing authority employees is threatened;

"(B) fourteen days in the case of nonpayment of rent; and

"(C) thirty days in any other case; and

"(4) require that the Indian housing authority may not terminate the tenancy except for serious or repeated violation of the terms or conditions of the lease or for other good cause.

"(i) The Secretary shall not impose any unnecessarily duplicative or burdensome reporting requirements on tenants of Indian housing authorities assisted under this title.

"ANNUAL CONTRIBUTIONS FOR OPERATION OF LOWER INCOME HOUSING PROJECTS

"SEC. 206. (a)(1) In addition to the contributions authorized to be made for the purposes specified in section 204 of this title, the Secretary may make annual contributions to Indian housing authorities for the operation of lower income housing projects. The contributions payable annually under this section shall not exceed the amounts which the Secretary determines are required (A) to assure the lower income character of the projects involved, (B) to achieve and maintain adequate operating services and reserve funds, and (C) to provide funds (in addition to any other operating costs contributions approved by the Secretary under this section) as determined by the Secretary to be required to cover the administrative costs to an Indian housing authority during the development period of a project approved pursuant to section

204 and until such time as the project is occupied. The Secretary shall embody the provisions for such annual contributions in a contract guaranteeing their payments subject to the availability of funds, and such contract shall provide that no disposition of the lower income housing project, with respect to which the contract is entered into, shall occur during and for ten years after the period when contributions were made pursuant to such contract unless approved by the Secretary. For purposes of making payments under this section, the Secretary shall establish standards for costs of operation and reasonable projects of income, taking into account the character and location of the project and characteristics of the families served, or the costs of providing comparable services as determined in accordance with criteria or a formula representing the operations of a prototype well-managed project. Where the Secretary determines that an Indian housing authority has failed to submit an acceptable audit on a timely basis in accordance with applicable program requirements, the Secretary may arrange for and pay the costs of such an audit. In such circumstances, the Secretary may withhold from assistance otherwise payable to the authority under this section amounts sufficient to pay for the reasonable costs of conducting an acceptable audit, including, where appropriate, the reasonable costs of accounting services necessary to place the authority's books and records in auditable condition.

"(2) The Secretary may not make assistance available under this section for any lower income housing project unless such project is one developed pursuant to a contributions contract authorized by sections 5(c) or 205, except that after the duration of any such contributions contract with respect to a lower income housing project, the Secretary may provide assistance under this section with respect to such project as long as the lower income nature of such project is maintained.

"(b) The aggregate rentals required to be paid in any year by families residing in the dwelling units administered by an Indian housing authority receiving annual contributions under this section shall not be less than an amount equal to one-fifth of the sum of the incomes of all such families.

"(c) There are authorized to be appropriated, for the purpose of providing payments pursuant to this section such sums as may be necessary.

"(d) If, in any fiscal year, any funds which have been appropriated for such year remain after applying the provisions of the second and fourth sentences of subsection (a)(1), the Secretary shall distribute such funds to lower income housing projects which incurred excessive costs which were beyond their control and the full extent of which was not taken into account in the original distribution of funds for such fiscal year.

"FINANCING LOWER INCOME HOUSING PROJECTS

"SEC. 207. (a) Obligations issued by an Indian housing authority in connection with lower income housing projects which (1) are secured (A) by a pledge of a loan under any agreement between such Indian housing authority and the Secretary, or (B) by a pledge of annual contributions under an annual contributions contract between such public housing agency and the Secretary, or (C) by a pledge of both annual contributions under an annual contributions contract and a loan under an agreement between such Indian housing authority and the Secretary, and (2) bear, or are accompanied by, a certificate of the Secretary that such obligations are so secured, shall be incontestable in the hands of a bearer and the full faith and credit of the United States is pledged to the payment of all amounts agreed to be paid by the Secretary as security for such obligations.

"(b) Except as provided in section 204(g), obligations, including interest thereon, issued by Indian housing authorities in connection with lower income housing projects shall be exempt from all taxation now or hereafter imposed by the United States whether paid by such authorities or by the Secretary. The income derived by such authorities from such projects shall be exempt from all taxation now or hereafter imposed by the United States.

"LABOR STANDARDS

"SEC. 208. Any contract for loans, contributions, sale, or lease pursuant to this title shall contain a provision requiring that not less than the wages prevailing in the locality, as determined or adopted (subsequent to a determination under applicable State or local law) by the Secretary, shall be paid to all architects, technical engineers, draftsmen, and technicians employed in the development, and all maintenance laborers and mechanics employed in the operations, of the lower income housing project involved.

"COMPREHENSIVE GRANT PROGRAM

"SEC. 209. (a) PURPOSE AND AUTHORITY TO PROVIDE FINANCIAL ASSISTANCE.—(1) The purpose of this section is to provide Indian housing authorities with a predictable source of funding and, through deregulation, with the flexibility to determine the most appropriate use of available funding, in order to assume the responsibility for improving the physical condition of existing Indian housing projects, upgrading their management and operation, and thereby contributing to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families.

"(2) The Secretary may make available, and contract to make available, financial assistance to Indian housing authorities in accordance with the provisions of this section with respect to Indian housing (as defined in section 202(b)(1)) owned or operated by them.

"(b) ALLOCATIONS.—(1) From the amount approved in an appropriation Act for any year for financial assistance under this section, the Secretary shall determine the amount necessary to fund the annual accrual of capital improvement needs of Indian housing authorities, based on available data concerning these needs. The Secretary shall allocate this amount to each Indian housing authority on the basis of a formula, which is based on objectively measurable criteria which reflect the annual accrual of capital improvement needs of each Indian housing authority.

"(2) The Secretary shall allocate the amount that remains after the allocation referred to in paragraph (1) to Indian housing authorities, based on the relative current needs of the authorities for capital improvements, as determined by the Secretary.

"(c) CONDITIONS FOR FUNDING.—No financial assistance may be made available under this section unless: (1) the Indian housing authority has certified that it has completed and retained in its files a comprehensive plan that is in conformity with applicable program requirements, and submitted a one-year work plan, as required by subsection (f); and (3) the Secretary approves the work plan, in accordance with subsection (g). Authorities which the Secretary determines do not meet, or are not making reasonable progress toward meeting, the performance standards under subsection (h)(2)(C) shall submit their comprehensive plan to the Secretary for review and approval. The Secretary's review shall assess whether the plan is adequate to improve the physical condition of the authority's housing projects, upgrade their management and operation, and contribute to their long-term viability and their continued availability to provide decent, safe, and sanitary living conditions for lower income families. Notwithstanding the conditions for funding in this subsection, the Secretary may provide assistance where necessary to correct conditions that constitute an immediate threat to the health or safety of tenants.

"(d) COMPREHENSIVE PLAN.—The comprehensive plan shall contain—

"(1) a comprehensive assessment of—

"(A) the current physical condition of each project owned or operated by the authority;

"(B) the physical improvements necessary for each project to permit the project to be rehabilitated to a level the authority determines is appropriate for the project; and

"(C) the replacement needs of equipment systems and structural elements which will be required to be met (assuming routine and timely maintenance is performed) during the five-year period covered by the assessment;

"(2) a comprehensive assessment of the improvements needed to upgrade the management and operation of the authority and of each project so that decent, safe, and sanitary living conditions will be provided, including at least an identification of needs related to—

"(A) the management, financial, and accounting control systems of the authority for the projects;

"(B) the adequacy and qualifications of personnel employed by the authority in the management and operation of the projects for each category of employment; and

"(C) the adequacy and efficacy of (i) tenant programs and services; (ii) the security of each project and its tenants; (iii) policies and procedures of the authority for the selection and eviction of tenants; and (iv) other policies and procedures of the authority relating to the projects, as listed in regulations issued by the Secretary;

"(3) an analysis, made on a project-by-project basis in accordance with standards prescribed by the Secretary, demonstrating that completion of the improvements and replacements identified under paragraphs (1) and (2) will reasonably assure the long-term viability of the project at a reasonable cost;

"(4) based on a reasonable expectation of continued funding, a five-year work plan to correct the deficiencies identified under paragraphs (1) and (2) to the extent possible within the five-year timeframe. The five-year work plan shall provide for making the improvements and replacements identified under paragraphs (1) and (2) which, pursuant to the analysis described in paragraph (3), the authority anticipates will reasonably assure the long-term viability of projects at a reasonable cost, and reasonably assure the efficient use of funds to achieve decent, safe, and sanitary living conditions for most lower income families. The work plan shall include at least a schedule, in priority order, of the actions which are to be completed, over a period of not more than five years, and which are necessary (A) to make the improvements and replacements identified under paragraph (1) for each project expected to receive capital improvements or replacements; and (B) to upgrade the management and operation of the authority and its projects as identified under paragraph (2);

"(5) a statement from the Indian tribal official that the tribe has been consulted on the development of the comprehensive plan, has had an opportunity to comment, has approved the comprehensive plan, and will cooperate in the work process and provision of tenant programs and services;

"(6) a preliminary estimate of the total cost of the items identified in paragraphs (1) and (2), including a preliminary estimate of the costs that will be incurred during each year covered by the comprehensive plan; and

"(7) such other information as the Secretary may require.

"(e) PUBLIC COMMENT.—To permit tenant, public, and tribal government examination and appraisal of the comprehensive plan, to further enhance authority flexibility and accountability, and to facilitate coordination of activities among various levels of government, the authority shall in a timely manner—

"(1) give the tenants, the public, and the tribal government information concerning the amount of funds expected to be available each year for comprehensive improvements;

"(2) publish an announcement that the proposed comprehensive plan is available for review, and make it sufficiently available, so tenants, the public, and the tribal government have an opportunity to examine it and submit comments;

"(3) hold at least one meeting for tenants in projects to be affected by each comprehensive plan to obtain views on the agency's comprehensive plan;

"(4) hold at least one public hearing to obtain views on the authority's comprehensive plan; and

"(5) take comments into consideration.

"(f) ONE-YEAR WORK PLAN.—(1) To receive assistance with respect to any fiscal year, each Indian housing authority shall prepare, and submit to the Secretary, a one-year work plan indicating the particular activities to be conducted in the next authority fiscal year. The one-year work plan shall be based on the comprehensive plan and reflect the actions necessary to assure the long-term viability of the projects at a reasonable cost and the schedule of priorities contained in the comprehensive plan.

"(2) The authority shall submit, with the one-year work plan, an information copy of any amendments to its five-year comprehensive plan or of a revised plan, and certifications—

"(A) that it has completed the comprehensive plan in conformity with applicable program requirements;

"(B) that the one-year work plan is consistent with the comprehensive plan;

"(C) that it has provided the tenants of Indian housing and other interested parties the opportunity to review the work plan and comment on it, and that such comments have been taken into account in formulating the plan as submitted to the Secretary;

"(D) from the Indian tribal official that the tribe has been consulted on the development of the one-year work plan, has had an opportunity to comment on it, has approved the one-year work plan, and will cooperate in the work process and provision of tenant programs and services;

"(E) that it will spend the funds available under the one-year work plan in accordance with subsection (i) in such a way as to accomplish the actions in the plan in a cost-effective manner; and

"(F) that it will implement the one-year work plan in conformance with (i) the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968), (ii) title VI of the Civil Rights Act of 1964, (iii) title VIII of the Civil Rights Act of 1968, and (iv) section 504 of the Rehabilitation Act of 1973.

"(g) REVIEW OF ONE-YEAR WORK PLANS BY THE SECRETARY.—(1) The Secretary shall approve a one-year work plan submitted under subsection (f) unless—

"(A) the plan is incomplete;

"(B) on the basis of available significant facts and data pertaining to the physical and operational condition of the Indian housing authority's projects or the management and operations of the authority, the Secretary determines that the authority's identification of work is plainly inappropriate to contributing to the long-term viability of the projects or maintaining the decent, safe, and sanitary character of the project; or

"(C) there is evidence available to the Secretary which tends to challenge in a substantial manner any certification contained in the plan.

"(2) The plan shall be considered to be approved unless the Secretary notifies the authority in writing within seventy-five days of submission that the Secretary has disapproved the plan as submitted. The notice shall detail the reasons for disapproval and the modifications required to make the plan approvable and, where appropriate, specify why the proposed work is plainly inappropriate to contributing to the long-term viability of the projects or maintaining their decent, safe, and sanitary character.

"(h) ANNUAL PERFORMANCE REPORTS; REVIEWS AND AUDITS.—

"(1) PERFORMANCE AND EVALUATION REPORTS.—Each Indian housing authority receiving assistance under this section shall submit to the Secretary, on a date determined by the Secretary, the performance and evaluation report concerning the use of funds made available under this section. The report of the authority shall include its assessment of the relationship of such use, as well as the use of other funds, to the needs identified in the applicable one-year work plan of the authority and to the purposes of this section. The agency shall certify that it made the report available for review and comment by tenants, the public, the Indian government, and other interested parties before its submission to the Secretary.

"(2) REVIEWS BY SECRETARY.—The Secretary shall, at least on an annual basis, make such reviews as may be necessary or appropriate to determine whether each authority receiving assistance under this section—

"(A) has carried out its activities under this section in a timely manner and in accordance with its one-year work plan;

"(B) has a continuing capacity to carry out its one-year work plans in a timely manner;

"(C) has satisfied, or has made reasonable progress toward satisfying, such performance standards as shall be prescribed, by the Secretary, which shall include at least that the authority shall—

"(i) maintain all occupied dwelling units in Indian housing projects eligible for assistance under this section at levels at least equal to the housing quality standards established by the Secretary under section 8(o)(6) of this Act;

"(ii) maintain at least a 97 per centum occupancy rate for all dwelling units in such projects; and

"(iii) maintain an operating reserve, as authorized under section 206(a), equal to at least 20 per centum of the routine expenses in the operating budget of each year; and

"(D) has made reasonable progress in carrying out modernization projects approved under the provisions of section 14 of this Act, as it existed immediately before the effective date of this title. The Secretary shall make the determination under clause (D) of the preceding sentence before providing financial assistance under this section with respect to the first funding cycle after the effective date of this title as well as for later funding cycles.

"(3) AUDITS OF FINANCIAL TRANSACTIONS.—Recipients of assistance under this section shall have an audit made in accordance with chapter 75 of title 31, United States Code. The

Secretary, the Inspector General of the Department of Housing and Urban Development, and the Comptroller General of the United States shall have access to all books, documents, papers, or other records that are pertinent to the activities carried out under this section in order to make audit examinations, excerpts, and transcripts.

"(4) CORRECTIVE ACTIONS.—The one-year work plan (once approved by the Secretary) shall be binding upon the Secretary and the Indian housing authority. The comprehensive plan and any amendments to the comprehensive plan will also be binding, if the plan and any amendments are approved by the Secretary under subsection (c) in the case of authorities that do not meet, or are not making reasonable progress toward meeting, the performance standards. The Secretary may order corrective action only if the Indian housing authority does not comply with paragraph (1), or if a review under paragraph (2) or an audit under paragraph (3) reveals findings that the Secretary determines require corrective action. The Secretary may withhold funds under this section only if the Indian housing authority fails to take corrective action after written notice and a reasonable opportunity to do so. In administering this section, the Secretary shall, to the greatest extent possible, respect the professional judgment of the administrators of the Indian housing authority.

"(i) Eligible Costs.—(1) An Indian housing authority may use financial assistance received under this section only—

"(A) to undertake activities described in its approved one-year work plan;

"(B) to correct conditions that constitute an immediate threat to the health or safety of tenants, whether or not the need for correction is indicated in its comprehensive plan or one-year work plan;

"(C) to prepare a comprehensive plan and a one-year work plan, including reasonable costs in connection with public comment, an annual performance and evaluation report, and an audit; and

"(D) to operate Indian housing projects consistent with the requirements that apply to amounts provided under section 206 for the operation of lower income housing projects, except that not more than 20 per centum of the amount received under this section for any authority fiscal year may be so used.

"(2) Financial assistance received under this section may be expended only for allowable costs as determined in accordance with cost determination policies of the Office of Management and Budget applicable to Indian tribal governments, as appropriately modified for application to Indian housing authorities.

"(j)(1) There are authorized to be appropriated, for the purpose of providing financial assistance under this section, such sums as may be necessary for fiscal years 1988, 1989, and 1990.

"(2) Any amount appropriated under this subsection shall remain available until expended.

"AVAILABILITY FOR LOWER INCOME FAMILIES

"SEC. 210. Not more than 25 per centum of the dwelling units available for occupancy under annual contributions contracts entered into under this Act with Indian housing authorities shall be available for leasing by lower income families other than very low-income families.

"DEMOLITION AND DISPOSITION OF INDIAN HOUSING

"SEC. 211. (a) The Secretary may not approve an application by an Indian housing authority for permission, with or without financial assistance under this title, to demolish or dispose of an Indian housing project or a portion of an Indian housing project unless the Secretary has determined that—

"(1) in the case of an application proposing demolition of an Indian housing project or a portion of an

Indian housing project, the project or portion of the project is obsolete as to physical condition, location, or other factors, making it unusable for housing purposes, or no reasonable program of modifications is feasible to return the project or portion of the project to useful life; or in the case of an application proposing the demolition of only a portion of a project, the demolition will help to assure the useful life of the remaining portion of the project; or

"(2) in the case of an application proposing disposition of real property of an Indian housing authority by sale or other transfer—

"(A)(i) the property's retention is not in the best interests of the tenants or the Indian housing authority because developmental changes in the area surrounding the project adversely affect the health or safety of the tenants or the feasible operation of the project by the Indian housing authority, because disposition allows the acquisition, development, or rehabilitation of other properties which will be more efficiently or effectively operated as lower income housing projects and which will preserve the total amount of lower income housing stock available in the community, or because of other factors which the Secretary determines are consistent with the best interests of the tenants and Indian housing authority and which are not inconsistent with other provisions of this title; and

"(ii) for property other than dwelling units, the property is excess to the needs of a project or the disposition is incidental to, or does not interfere with, continued operation of a project; and

"(B) except as otherwise provided by this subparagraph, the net proceeds of the disposition will be used for (i) the payment of development cost for the project and for the retirement of outstanding obligations issued to finance original development or modernization of the project, and (ii) to the extent that any proceeds remain after the application of proceeds in accordance with clause (i), the provision of housing assistance for lower income families through such measures as modernization of lower income housing, or the acquisition, development, or rehabilitation of other properties to operate as lower income housing; in the case of an Indian housing project financed under either section 5(a)(2) or section 204(a)(2) of this title, or with respect to which a loan made under sections 4(a) or 203(a) of this title was forgiven under section 4(c) or 203(c), respectively, the net proceeds of the disposition will be used in a manner prescribed by the Secretary in regulations, which shall be comparable (as determined by the Secretary, taking into account that the indebtedness was forgiven or a different financing method was used, as appropriate) to the requirements for the use of such net proceeds applicable to other Indian housing projects under this subparagraph.

"(b) The Secretary may not approve an application or furnish assistance under this section under this title unless—

"(1) the application from the Indian housing authority has been developed in consultation with tenants and tenant councils, if any, who will be affected by the demolition or disposition and contains a certification by appropriate tribal government officials that the proposed activity is consistent with the applicable housing assistance plan; and

"(2) all tenants to be displaced as a result of the demolition or disposition will be given assistance by the Indian housing authority and are relocated to other decent, safe, sanitary, and affordable housing, which is, to the maximum extent practicable, housing of their choice, including housing assisted under section 8 of this title.

"(c) Notwithstanding any other provision of law, the Secretary is authorized to make available financial assistance for applications approved under this section using available contributions authorized under section 204(c).

"(d) The provisions of this section shall not apply to the conveyance of units in an Indian housing project for the purpose of providing homeownership opportunities for lower income families capable of assuming the responsibilities of homeownership.

"TRANSITION PROVISION

"SEC. 212. All references to sections 3, 4, 5, 6, 9, 11, 12, 14, 16, or 18 in any contract for assistance with an Indian housing authority entered into before the effective date of this title shall be amended to refer to sections 202, 203, 204, 205, 206, 207, 208, 209, 210, and 211, respectively.

"AUDITS: COMPTROLLER GENERAL

"SEC. 213. Every contract for loans or contributions under title II of the United States Housing Act of 1937 shall provide that the Secretary of Housing and Urban Development and the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination, have access to any books, documents, paper, and records of the Indian housing authority entering into such contract that are pertinent to its operations with respect to financial assistance under title I of this Act.

"RECAPTURE OF FUNDS

"SEC. 214. Any budget authority available for use for Indian housing under this title or under title I that is recaptured shall be available only for Indian housing.";

(2) by inserting the following new title designation after section 1:

"TITLE I—ASSISTED HOUSING".

(b) Section 2 of such Act is amended—

(1) by striking out "Act" wherever it appears and inserting in lieu thereof "title"; and

(2) in the second sentence, by inserting "or her" after "his".

(c) Section 3(a) of such Act is amended by striking out "Act" wherever it appears and inserting in lieu thereof "title".

(d) Section 3(b) of such Act is amended by—

(1) striking out "this Act" the first time it appears and each time it appears in paragraphs (1) and (3) and inserting in lieu thereof "this title"; and

(2) amending paragraph (7) to read as follows:

"(7) the term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the territories and possessions of the United

States, and the Trust Territory of the Pacific Islands.".

(e) Section 4(b) of such Act is amended by striking out "Act" and inserting in lieu thereof "title".

(f) Section 5 of such Act is amended by striking out "this Act" wherever it appears in subsections (c)(4), (d), (e) and (f) and inserting in lieu thereof "this title".

(g) Section 6 of such Act is amended by striking out "Act" in the first sentence of subsection (a) and wherever it appears in subsections (c), (g)(2) and (k) and in the parenthetical in subsection (d)(1) and inserting in lieu thereof "title".

(h) Section 8(f) of such Act is amended by—

(1) by striking out "and" at the end of the paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding the following new paragraphs (4), (5), and (6) to read as follows:

"(4) the term 'public housing agency' includes 'Indian housing authority' as defined under section 203(b)(6) of this Act;

"(5) the term 'public housing' includes 'Indian housing authority' as defined under section 203(b)(6) of this Act;

"(6) the term 'adjusted income' when applied by an Indian housing authority includes, where appropriate, the adjustment for excessive travel expenses as provided for in section 203(b)(5)(D) of this Act.".

(i)(1) Section 213 of the United States Housing Act of 1937 shall not take effect until Congress, by law, establishes criteria for a formula or other allocation method to be used by the Secretary of Housing and Urban Development under section 213 of the United States Housing Act of 1937 to determine—

(A) for each Indian housing authority the amounts necessary to address current needs for capital improvements;

(B) for each authority, the amounts necessary to address the future needs for capital improvements through a replacement reserve; and

(C) the relative needs of authorities of different sizes for the amount described in subparagraphs (A) and (B).

(2) Not later then one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report setting forth—

(A) the proposed method for providing funding for unanticipated or extraordinary emergency needs;

(B) the proposed method of determining the division of funds between current needs and annual accrual of capital improvement needs;

(C) the proposed method of determining amounts to be provided to Indian housing authorities for current needs and for annual accrual of capital improvement needs, which may include a formula for specifying amounts for individual agencies or a method of regional, field office, or other allocations;

(D) an analysis of the objectively measurable data or other information used under subparagraphs (A), (B), and (C), along with a comparison of the proposed allocations to recent previous funding; and

(E) any proposed difference in the method of funding large and small authorities.

(3)(A) Any amount that the Secretary has obligated to an Indian housing authority under sections 5 and 9 of the United States Housing Act of 1937, as it existed immediately before the effective date of this Act, shall be used as provided by sections 205 and 209, respectively.

(B) Any amount that the Secretary has obligated to an Indian housing authority under section 14 of the United States Housing Act of 1937, as it existed immediately before the effective date of this Act, shall be used for the purposes for which amount was provided, or purposes consistent with a one-year work plan submitted by the authority and approved by the Secretary under section 213, as amended by this Act, as the agency considers appropriate.

○

The **Chairman**. We will now call upon the first panel but, before I do, I have a statement from the Honorable Alan Cranston, senior Senator from the State of California, and his statement will be made part of the record at this point.

[Prepared statement of Senator Cranston appears in appendix.]

The **Chairman**. The first panel consists of the Executive Director of the National American Indian Housing Council, Ms. Virginia Spencer; the Commissioner of the Oglala Sioux Tribal Housing Authority, Pine Ridge, South Dakota, Ms. Charlotte Black Elk; the Director of the Hopi Tribal Housing Authority of Second Mesa, Arizona, Mr. Joseph Laban; and the Director of the Navajo Housing Authority of Window Rock, Arizona, Mr. Fred Thompson.

If you are here, Ms. Spencer, Ms. Elk, Mr. Laban, and Mr. Thompson.

Ms. Spencer, would you like to begin?

STATEMENT OF VIRGINIA SPENCER, EXECUTIVE DIRECTOR, NATIONAL AMERICAN INDIAN HOUSING COUNCIL, WASHINGTON, DC

Ms. **Spencer**. Thank you, Mr. Chairman.

Chairman Inouye and members of the Select Committee on Indian Affairs, my name is Virginia Spencer, and I am the Executive Director of the National American Indian Housing Council. I very much appreciate the opportunity to testify before you today on S. 1987, the "Indian Housing Act of 1987." Through your efforts, Mr. Chairman, this proposed legislation has been introduced on behalf of many tribes and is supported by the members of the National American Indian Housing Council. The Council is a 14-year-old association of Indian housing authorities who administer the Department of Housing and Urban Development's Indian Housing Program on reservations and Indian and Alaska Native areas throughout the country.

There are 173 Indian housing authorities over the country and over 70 percent are current members of the National American Indian Housing Council. We also administer the AMERIND Risk Management Corporation Program with 163 out of 173 Indian housing authorities.

On behalf of our membership, I thank you for the introduction of this important legislation and urge you to move this bill forward to enactment. I understand that there is a similar bill, H.R. 3927, that was introduced on the House side that could be conferenced with this bill, and we support both committees in proceeding with this action.

I want to go on record as opposing block grants for housing. I feel that we have the delivery mechanism in place for the existing program, and we want to continue and expand on that program. As you know, public housing assistance was provided in this country in the 1930's. However, it wasn't until the 1960's that the Department of Housing and Urban Development, then known as the Federal Housing Administration, and the Department of Interior, through the Bureau of Indian Affairs, made an effort to provide housing assistance to American Indians and Alaska Natives.

Since that time, approximately 60,000 homes have been constructed on restricted lands and an equal number have been rehabilitated. Currently, nearly 93,000 Indian families are in need of decent and safe homes. In 1970, that figure was 63,000. While the need for homes is growing, the appropriations are shrinking. Every dollar must be used most efficiently and programs must be designed and utilized with that in mind. The delivery system for new construction is in place and now it remains for the program design to be made more relevant to meet the needs of Indians living in remote, rural areas on restricted lands.

In the 1960's, when the Federal Housing Administration determined that tribal governments could be eligible for assistance, the Department designed the Indian Program after the Public Housing Program, even though the Indian units developed were designed for homeownership with a self-help element. Rules didn't come about until 15 years later. Thus was created two homeownership programs, "Old Mutual Help" and "New Mutual Help." And then in the 1970's, we also got low-rent units and another homeownership program: Turnkey III. Only the latter two programs have their counterparts in the Public Housing Program. Approximately 60 percent of the Indian program financed by HUD are homeownership units. In Public Housing, less than five percent are homeownership units.

There are numerous differences between the Public Housing Program and service to Indians, and I've included those in my written comments. I think we all know that at least the stereotype of public housing is medium- to high-rise apartment buildings in urban areas, operated by a housing authority staff that's somewhat removed from the tenants, where public transportation is readily available and other amenities, such as public water and sewer, are standard. This is a very different environment from most Indian communities.

Indian housing authority staff are generally from the community, and most everyone is related to them. It makes it a little bit different when you go to collect the rent.

Twenty percent of the communities still lack basic water and sewer. The trust nature of land prohibits alienation and there is no other means of financing homes for Indian people.

Under the homeownership programs no operating subsidies are provided, even though in recent years 95 percent of all the assisted housing tenants, both Indian and non-Indian, were required to be very low income. While recently passed legislation corrected the problem by excluding Indians from this provision, the HUD Indian Housing programs have been plagued by changes in public housing law and regulations that only serve to complicate the delivery of homes to Indians and Alaska Natives.

S. 1987 is a major step in improving the delivery of housing. It basically codifies those portions of the 1937 Housing Act that apply to the Indian Housing Programs. Problems that exist in the programs that serve Indians can better be addressed with the enactment of this legislation. Solutions in the form of amendments or new regulations would also be easier to implement as they would only apply to Indian Housing and not have to be exceptions or waivers to the Public Housing program. Often, Housing Act amendments demand additional time while interpretations are made to fit the Indian Housing programs. For example, Indian housing authorities are still waiting for HUD to determine what applies to the homeownership agreements under the "debt forgiveness" language which was included in the 1986 Omnibus Reconciliation Act. Tribes want to know if their citizens now own their homes. Indian housing authorities also need to know so that they can plan accordingly. This issue is of no concern to public housing.

Currently, the Indian Housing programs have separate development and administrative procedures from Public Housing. But in order to discover the origins and the intent of the Indian Housing programs, you have to search through 40 years of statutes creating and amending the Housing Act. The separate title codifying the laws relating to Indian Housing will improve the chances of analyzing and refining the programs. S. 1987 proposes this separate title. It also states, for the first time, that it is the policy of the United States Government to assist American Indians and Alaska Natives in obtaining decent and safe homes.

I applaud the authors of this legislation who, also for the first time, wrote out the 55 pages necessary to codify the Indian Housing Program. This was the first time I had ever seen, in its entirety, those parts of the statute that apply only to Indian Housing. This alone has been a valuable exercise in that it allows tribes, housing authorities, HUD administrators and others to examine the law only as it relates to Indian Housing. Further examination will then allow for the program to begin to be designed for Indian communities rather than after an urban, rental-oriented housing program. Tribes, I believe, will take more part in making the program more efficient and successful in Indian Country. This enhances the goal of self-determination which is the current policy of the Federal Government to Indians.

Recommended changes that were initiated in this bill need to now be reviewed and amended to be consistent with the recently-passed housing legislation. In addition, one recommendation, that of reducing rents from 30 percent to 20 percent is the adopted position of the National American Indian Housing Council. This request is made due to the very low incomes in Indian Country, high unemployment rates, long distances that working-age Indians must travel to obtain and maintain a job. Paying 30 percent of one's meager income for housing leaves very little feed and clothe one's family as well as provide transportation to work. And I want to just mention for the record some statistics on poverty and substandard housing from some of the States that are represented on this committee.

In Alaska, for example, some 26 percent of the native population fall below poverty level, but for the general population, including them, it's only 11 percent. For housing, 55 percent of the housing in Alaska is substandard for natives compared to 16 percent for the rest of the population.

Forty-four percent of Indians are below poverty in Arizona, versus 13 percent of the general population. Sixty-two percent of the housing in Arizona on Indian land is substandard compared to 8 percent for the rest of the population.

Just housing statistics for Montana, 25 percent of the Indian population is in substandard housing compared to 6 percent.

In North Dakota, it's 30 percent versus 5 percent.

South Dakota, 39 percent versus 6 percent.

And in Washington State, 14 percent of the Indians live in substandard housing compared to only 4 percent of the general population including Indians.

Rolling back the requirement of 30 percent of income for all assisted housing tenants could help everybody in public housing. This would help avoid evictions which are leading to more and more homelessness in America. In Indian Country we define homeless as doubling or tripling up with other family members. But it does exist.

Additional appropriations for housing are also necessary. A minimum of 6,000 units per year of new construction could meet the existing need for new units in Indian Country in approximately ten years. At the current level of 2,000 units a year, it is going to take over 30 years to meet today's need.

While major housing assistance programs were developed in the 1930's and 1940's for the rest of the nation, Indian housing needs were ignored. A variety of programs are now available to most Americans at several economic levels, but, to date, for American Indians and Alaska Natives on restricted lands, home mortgages are not available on reasonable terms, rental units cannot be found, and assistance to the lowest income has been totally inadequate to deal with the increasing numbers needing help. There are numerous social, economic, and legal factors affecting Indian people, which I have already mentioned.

The Indian population has also increased by nearly 25 percent since 1980 and the median age is between 20 and 25 years. There is every indication that there will be an increasing demand for housing for Indians in the future. Maintaining the existing delivery system and programs is essential. Codification of this delivery system, the HUD Indian Housing Program, under a separate title in the Housing Act will help assure this program's future as well as better serving the needs of Indians and Alaska Natives.

Mr. Chairman, and members of the committee, the membership of the National American Indian Housing Council sincerely thanks you for your efforts to improve the delivery of decent homes to Indians and urges you to act expeditiously on this proposed legislation. A strong commitment from you, and all that are concerned with providing housing assistance to American Indians and Alaska Natives is needed more than ever. Without it, this Nation's first peoples will be homeless because there is no other safety net.

Thank you.

[Prepared statement of Ms. Spencer appears in appendix.]

The CHAIRMAN. All right. Thank you very much, Ms. Spencer.

Before proceeding any further, I would like to advise witnesses here that the Select Committee intends to have a markup of this measure a week from tomorrow. That indicates how expeditiously we hope to treat this matter.

Ms. SPENCER. We very much appreciate that.

The CHAIRMAN. Accordingly, the record of these proceedings will have to be closed at the close of business this Friday. So if you have any additional statements or documents you would like to submit, I would request that you submit them by the close of business on Friday.

Furthermore, any prepared text will be made part of the record.

May I now call upon Ms. Black Elk.

STATEMENT OF CHARLOTTE BLACK ELK, COMMISSIONER, OGLALA SIOUX TRIBAL HOUSING AUTHORITY, PINE RIDGE, SD

Ms. BLACK ELK. Good morning, Mr. Chairman and members of the Senate Select Committee on Indian Affairs.

My name is Charlotte Black Elk, and I am the commissioner from the Wounded Knee District on the Oglala Sioux Housing Authority. I appreciate this opportunity to present testimony.

We recommend that section 204(i) be expanded to include water-efficient systems. As Lakota people we are taught that water is a precious resource that must be respected and used judiciously. We feel that it is appropriate and reasonable to legislate that we have water protection. In the West, where we live, it is a diminishing resource.

The Oglala Sioux Tribe has expended considerable effort over the last 20 years upgrading their courts and tribal codes. Our tenants are currently provided a greater degree of protection and due process than that offered under section 205(g).

While the Oglala Sioux Housing Authority is a large and important part of tribal government, it is only one part of a greater tribal structure, and we have to respect the integrity of our tribal government. I think it is important that the Congress afford full faith and credit to our courts by recognizing them as courts of competent jurisdiction. We recommend that this section be expanded to defer to appropriate tribal laws, processes, and ordinances.

All too often in the past our relationship with the Department of Housing and Urban Development has been based upon the presumption of incompetence of tribal government. We, therefore, applaud the spirit of self-determination, local control, and tribal responsibility that is the foundation of S. 1987, and we support this direction.

I appreciate this opportunity to address you. Thank you.

The CHAIRMAN. Thank you very much. Ms. Black Elk, I presume that you have specific language you would like to propose to the committee.

Ms. BLACK ELK. We will give it to you.

[Prepared statement of Newton Cummings, Chairman, Oglala Sioux Housing Authority, appears in appendix.]

The CHAIRMAN. Mr. Thompson.

STATEMENT OF FRED THOMPSON, DIRECTOR, NAVAJO HOUSING AUTHORITY, WINDOW ROCK, AZ

Mr. THOMPSON. Good morning, Mr. Chairman.

I do appreciate the opportunity to provide written testimony here, Mr. Chairman. Thank you again.

Chairman Inouye, the Navajo Nation Housing Authority commends the initiative undertaken by you, Senator Evans, Senator McCain, Senator Burdick, Senator Daschle, and Senator DeConcini in introducing S. 1987, the Indian Housing Act of 1987, to address the housing needs unique to Indian people.

The Indian Housing Act of 1987 takes a positive step toward granting Indian housing authorities the responsibility they need to administer their housing programs in a proper fashion while also improving the quality of housing for Indian people. Hopefully, the Indian Housing amendments will allow the Navajo Housing Authority to establish more equitable rents for its tenants.

With the largest Indian population in the country to serve, the NHA has sought to maximize its participation in the Department of Housing and Urban Development's Indian housing programs. HUD's two major housing programs, widely used on the Navajo Reservation, are the Mutual Help/Home Ownership Opportunity Program and the Low-Income Public Housing Rental Program. NHA presently manages 1,546 Mutual Help/Homeownership units and 2,726 public rental units. We also have 444 new homeownership units and 33 new rental units that are ready for occupancy. Given this experience, NHA would like to ask you, Mr. Chairman, and the Senate Select Committee on Indian Affairs to give serious and thoughtful consideration to the following comments and recommendations submitted by the Navajo Housing Authority relating to S. 1987.

The Navajo Nation continues to support the concept of establishing separate rules and regulations for Indian housing authorities. Under current law, the Indian housing authorities must abide by the same rules and regulations as public housing authorities even though the economies and demographics of the service areas are entirely different. As a result, the Navajo Nation faces a critical shortage of affordable, safe and sanitary housing. The Navajo Housing Authority is confident that this shortage could be alleviated by implementing rules and regulations that are better suited to the unique housing situations on Indian Reservations.

The United States Housing Act of 1937 provides the basis for Indian housing programs. The legislative history of this act reflects Congressional concern during the Great Depression for the large numbers of homeless Americans and for others whose homes were unsafe and unsanitary. The goal of the 1937 legislation was to provide Federal funding for new home construction and existing home improvements for low-income families. Although Indian Country was not specifically excluded from the United States Housing Act of 1937, there is no evidence in the law's legislative history to suggest that Congress ever considered Indian people and their housing problems when it drafted the law.

It was not until the 1960's, after sufficient numbers of Indian people protested the deplorable housing conditions on the Reservations, that the Department of the Interior examined the applicability of some of HUD's urban programs in Indian Country and urged HUD to initiate pilot projects. In 1961, Congress appropriated the first funds specifically earmarked for Indian housing, and in 1968, section 206 of the Housing and Urban Development Act contained the Department's first official reference to Indian Country, mentioning HUD's obligation to serve low-income families in Indian Country.

The primary source of funding for housing in Indian Country since the 1960's has been the Department of Housing and Urban Development. However, in complying with its Congressional mandate, HUD did not completely redesign its predominately urban housing program when it made the transition into Indian Country.

Navajo Housing Authority fully supports the separation of the Indian housing program from HUD's other public housing programs contained in the legislation as Title II of the United States Housing Act of 1937. However, we strongly recommend that S. 1987 go one step further by establishing the position of Assistant Secretary for Indian Housing within the Department of Housing and Urban Development. All too often, Indian people have found themselves lost in the competitive shuffle for Federal dollars that tends to overshadow the unique trust relationship between the United States Government and the Indian tribes. The Assistant Secretary position would ensure that Indian housing needs are accorded the priority that the Federal-Tribal relationship requires by providing direct access for Indian tribes, through their Indian housing authority, to the hierarchy of the HUD administrative structure.

The Navajo Nation's past experience with the public housing program should provide ample justification for creating a separate program to meet the needs of Indians. The Navajo Nation requires 30,000 units of public housing, out of the 60,000 units needed in Indian Country, to adequately meet the needs of our tribal members. However, for two consecutive fiscal years (1985 and 1986), Navajo did not receive one unit of housing, even though HUD justified its budget based on Navajo needs. In fiscal year 1987, Navajo was finally allocated funding for 626 new units—253 housing units were allocated through normal procedures and an additional 373 units came from recaptured funds only for fiscal year 1987. Mr. Chairman, it is not right that the Navajo first had to wait 2 years for new housing and then had more than half of its allocated or allotted through the recapture and reuse provision. Clearly, changes need to be made in the way Indian housing funds are distributed.

The reason the Navajo Nation did not receive funds for two years is simple and, when carefully examined, should be an impetus for major changes in the Indian housing program. HUD allocated Indian housing based on six criteria that are part of the overall management assessment—the Administrative Capability Assessment [ACA]. Tenants Accounts Receivable [TAR], which account for 16 percent of the ACA, are the amount of rental delinquencies that tenants owe the Indian Housing Authorities. The Navajo Nation's rental delinquencies were over the limit that HUD and the tribe had negotiated and, therefore, Navajo received a very poor score on 16 percent of the assessment, lowering its overall management performance. The low score has little to do with the Navajo Housing Authority's ability to effectively manage programs, as we were judged to be more than capable in meeting the other five criteria of the ACA. Thus, the delinquent rents of tribal members were solely responsible for stopping housing funds.

We believe that the delinquent rents of tribal members are largely attributable to the statutory requirement that tenants of Indian housing authorities pay 30 percent of their Adjusted Gross Income

[AGI] to rent. Consequently, as a tenant's income increases, so does his or her rent. The purpose of the AGI provision is logical in other public housing contexts. The AGI provision works to increase rent in proportion to salary, even though the quality of the housing stays the same. In a market-oriented economy, where there are alternatives to public housing, the AGI provisions should give the tenant an incentive to search for alternate housing, preferably in a private market.

There is one small problem with this policy as it relates to Indians in general and the country's largest tribe, the Navajo Nation, in particular. There is no private housing on the Navajo Reservation. On a reservation, the trust status of land has prohibited tribal members from using land as collateral and kept Native Americans from participating in an important aspect of the American dream, home ownership. Thus, if tribal members want private housing, they have to move off the Reservation. The alternative is to remain on the Reservation and face the prospect that, as their salary increases, so does their rent even though the quality and the condition of their dwelling remains the same or even decreases with time. Those Navajos who do not want to move from their family and friends on the Reservation have become discouraged by having to pay more and more for the same housing and have thus stopped paying their rent. As a result, the Navajo Housing Authority has been graded poorly in its management capability. This policy is irrational, unconstructive and unfair.

We also strongly support the idea that funds for Indian housing units that are recaptured from one project should be reused for another project rather than being returned to the Treasury. This provision helped us receive approximately 700 units in 1987. We believe that these changes would increase the efficacy of the program and better meet the needs of our people. The loss of Federal funds appropriated for Navajo housing in any fiscal year has a much greater and significant impact in Navajo Indian County than for other more urban public housing authorities because the Navajo Housing Authority is the only source of housing for Navajo communities. We also strongly believe that funds that are recaptured should be available for reuse by Indian housing authorities for an indefinite amount of time, and not just one year.

The Navajo Housing Authority feels it is time to amend the United States Housing Act of 1937 so that Indian housing authorities can better provide safe and adequate housing on reservations. However, in addition to the amendments to the United States Housing Act of 1939 proposed in S. 1987, the Navajo Nation recommends the following changes be included:

No. 1. A position should be created for an Assistant Secretary in the Department of Housing and Urban Development who would be responsible for Indian housing issues.

No. 2. Admission policies established by Indian housing authorities should be designed to attain a tenant body composed of families with a broad range of incomes and rent-paying abilities representative of the income levels of families in the area. Thus, section 103 of Public Law 100-242, which exempts Indian housing authorities from the 95 and 5 percent requirement that mandates that tenants of Indian housing authorities be "very poor" should be included in S. 1987 to provide consistency. This will give Indian housing authorities much more flexibility in administering their home ownership and rental programs and remedying the acute housing shortage that presently exists within Indian Country. Indian housing authorities are predominately rural housing programs and on most Indian Reservations are the only source of housing. The private housing sector is practically nonexistent. The broad range of incomes approach allows each Indian housing authority to address the specific housing needs of the Indian population in its own service area.

No. 3. NHA recommends that section 202(a)(2) of S. 1987, which changes the current standard rent payment from 30 percent of adjusted income to 20 percent of adjusted income with a rent ceiling established by the Indian housing authority, be amended to increase the rental percentage to 25 percent of adjusted income. Ultimately, Indian housing authorities should be granted the authority to set rents as they choose. With the increase of deductions proposed by the Navajo Housing Authority in the comments below, the percentage of adjusted income should be increased to allow Indian housing authorities to cover their debt service and operating expenses for the rental units. In addition, Navajo Housing Authority would recommend that the rent ceiling be based on fair market rental, which would more accurately reflect the cost and availability of rental dwelling units for a specific area served by the Indian housing authority. The purpose of the rent ceiling is to assist the Indian housing authority in receiving sufficient rental revenues to defray its debt service and operational costs associated with the rental units, thereby minimizing the amount of HUD subsidy needed to meet the Indian housing authority's rental operational expenses.

No. 4. S. 1987 appropriately excludes child care expenses and excessive travel expenses for unemployment or education travel from the adjusted income levels used to set rental rates. However, Navajo Housing Authority recommends that deductions authorized in HUD's 1980 regulations should be reinstated to more accurately address the economic characteristics of the Navajo people. We also believe programs such as Aid to Families and Dependent Children should not be considered as income.

Essentially, the deductions allowed would be (a) $500 for each household member under 18 years of age or handicapped or a full-time student; (b) 5 percent of the gross income of primary wage earners; (c) $500 for secondary wage earner who is the spouse of the head of the household; (d) expenses for child care and care of sick or incapacitated members necessary for employment; and finally, (e) unusual occupation expenses, which includes tools, uniforms, and the like.

Travel and child care expenses are among the highest costs to Navajo tenants. Navajos must travel long distances for employment since available housing is generally not in the area of their workplace. Shopping for household needs also requires extensive travel.

The CHAIRMAN. I am sorry to interrupt.

How much more testimony do you have, because I have to get to the floor to vote. Otherwise——

Mr. **Thompson**. I am just about done, Mr. Chairman.

The **Chairman**. Please proceed.

Mr. **Thompson**. By increasing the number of deductions for expenses like travel and child care, housing will then be available to a broader range of Navajo families than is currently served.

No. 5. An Indian housing authority should not be prohibited from complying with tribal preference and contracting requirements. Indian Nations possess inherent sovereignty to regulate matters within their territories, which extends to economic regulations designed to protect the health and welfare of the nation's members. Tribal laws that mandate preference in employment and contracting to tribal members are a proper exercise of self-government designed to promote the employment status of tribal members. Unemployment that exists within the Reservations far exceeds the unemployment rate in surrounding non-Indian communities. To alleviate this problem, Indian tribes have adopted tribally affiliated preference in employment laws. Congressional support in this area is needed.

This concludes my testimony, Mr. Chairman. Thank you very much.

[Prepared statement of Mr. Thompson appears in appendix.]

The **Chairman**. The hearing will stand in recess until the arrival of Senator McCain, at which time he will assume the chair.

[Recess.]

Senator **McCain** [presiding]. Please come to order.

Mr. Laban.

STATEMENT OF JOSEPH LABAN, DIRECTOR, HOPI TRIBAL HOUSING AUTHORITY, SECOND MESA, AZ, ACCOMPANIED BY THORNTON A. COOCHYOUMA

Mr. **Coochyouma**. As you all know, housing on Indian Reservations is deplorable. It is a travesty that, up until now, no one has given it much attention. However, we are happy at this time that, in this late date, we have given it our attention, and we are hopeful that the committee and all those representative of the bill would direct their attention to it. And the comments that Mr. Laban will be presenting to you, again, we hope that you will accept it in the manner in which it is going to be presented.

Thank you for the time.

Senator **McCain**. Thank you, sir. I appreciate your statement.

Please proceed, Mr. Laban.

Mr. **Laban**. Honorable Chairman Daniel Inouye, members of the Select Committee on Indian Affairs.

Thank you for your support, concern and interest in providing adequate housing for our Indian people.

My name is Joseph Laban, Executive Director of the Hopi Tribal Housing Authority. I am pleased to appear before you today to provide some information to you on our housing situation on Hopi which will help justify our support and recommendation on the passage of this historic legislation, Indian Housing Act of 1987, Senate Bill 1987.

Some of you already know the location of our reservation, Chairman Inouye who was there under another agenda recently, and Mr. McCain and Mr. DeConcini who represent Arizona.

The Hopi Indian Reservation is located at the northeastern corner of Arizona, consisting of 1.9 million acres and is situated on the high desert plain of the State. The area is flat with minimum resources immediately available for economic development.

The Hopi has inhabited this area since time immemorial with Oraibi being internationally known as the only continuously inhabited village in the United States. The village of Walpi is not too far behind.

Our homes are located on mesa tops, and are stone/masonry structures, which has survived many, many years. Because these homes were constructed many years ago, they do not meet the present day standards of safe, decent, and sanitary housing.

NEW LEGISLATION

This legislation, S. 1987, Indian Housing Act of 1987, is a piece of legislation which we can work with, therefore can support. The reason that we can readily support this legislation is because it is addressing the need. It is addressing one of the biggest hurdles that we as Indian Housing Authorities face while being but a very small part of Public Housing program, under Title I of the Housing Act of 1937. This hurdle is there because the rules, the regulations promulgated for Public Housing become automatically applicable to Indian Housing, inconsiderate of relevancy. This bill, S. 1987, is attempting to set up Indian Housing as a separate title [Title II Assisted Housing for Indians and Alaska Natives] under the Housing Act of 1937 and as such would create separate regulations more applicable to Indian Country.

ELIGIBILITY

There are two basic programs that have been implemented in Indian Country and they are (1) Mutual Help Homeownership program, and (2) Low Income Rental.

The focus of the eligibility requirements of both of these programs is the low-income families. On the Hopi Indian Reservation, these eligibility requirements are prohibitive on the most part because we do not have any outside financing available. Due to the trust status of our land, the complicated local control on our land base, it is next to impossible to obtain any outside, commercial financing for development. Therefore, any eligibility requirements based on income is prohibitive. The general eligibility based on income should be stated in terms such as:

LOW INCOME RENTAL PROJECTS

Section 202(a)(1) Dwelling units assisted under this title shall be rented to only those Indian families who meet the lower income requirements at the time of their initial occupancy of such units or such other income criteria deemed apropriate by the local Indian Housing Authority and local government.

MUTUAL HELP HOMEOWNERSHIP PROGRAM

There should be no maximum income limit on this project because of the nature of this project and the financing unavailability on Trust lands.

If a family's income is high enough to create a house payment in excess of the minimum house payment (Administrative Charge) established by the local Indian Housing Authority, this excess is applied directly to the equity of the family's house balance, thus reducing the term of the lease.

This homeownership opportunity program under Mutual Help projects is one of the best programs that has been initiated in Indian Country, providing housing and providing pride in ownership. The problem we have with or in conjunction with this program is its restrictions based on income considerations, restrictions to low and very low income criteria. On our reservation, we have very limited economic development as well as sporadic employment availability. We have families who sometimes have a total family income which exceeds the low and lower income limits and at other times this income falls below these limits, yet they need housing, and pride of ownership is one of the social norms that help one to have self-respect, self-worth which assist the individual to exert more effort to improve or maintain what he has. When one cannot obtain or is disqualified to obtain certain necessary provisions for his or her family, this deteriorates the self-image, self-respect of the individual, which leads to other problems. "* * * This program shall be designed to meet the homeownership needs of Indians on Indian Reservations and other Indian places, including Indians whose income exceeds the levels established for lower income families," would be the more appropriate language addressing the eligibility policies.

ADJUSTED INCOME—PARAGRAPH (5) (A)

The formula for establishing the adjusted income of a family is totally unfair, considers income that the family does not have available for spending. The deduction for each family member must be the same as the Internal Revenue Service, which is $1,900 per family member. This is the minimum that can be provided. Using the lower figure of $480 as a deduction considers a higher percentage of income as available for other necessities, which is just not there. Using the Internal Revenue rate is not only fair, it is consistent with other Federal agencies. The family head and spouse must be included in this consideration as their needs are also included in the overall family needs.

Paragraph (5)(D)(ii) eliminate the word "excessive" and leave the paragraph to read "travel expenses, not to exceed twenty-five dollars per family per week for employment or education related travel."

THIRTY PERCENT RENT RULE

It is very encouraging to learn that it is the recommendation in this proposed bill, S. 1987, that "(2) A family shall pay as rent for a dwelling unit assisted under this title * * * the highest of the following amounts rounded to the nearest dollar: (A) 20 per centum of the family's adjusted income;" It is not good medicine to include an OR statement, "(B) 10 per centum of the family's monthly income; or * * *". This paragraph has to be eliminated. Using double standards, dual considerations would only create more havoc, more mistrust among our Indian People, a mistrust that is based on the Government trying to get as much as they can from the Indian People. Only one calculation base is sufficient.

For those families who are on welfare assistance, Paragraph "C" of this same section is appropriate.

With the elimination of this option of 10 percent of the family's total monthly income, with the adjustment of deduction for each family member to the same rate as the Internal Revenue Service ($1,900 per family member, including Head of Household and Spouse) this calculation of house payments required of each family occupying the rental units would be more equitable. Those families occupying and participating in the Mutual Help Ownership Program, this same formula will be applicable except the base percentage. In the Mutual Help Home Ownership Program, the local Indian Housing Authority has the option to establish the percentage between 15 and 30 percent. This I believe would be changed to be consistent with this new legislation to 15 to 20 percent.

This is more equitable and more tolerable by the Indian families nationwide.

PROPERTY STANDARDS

With the evolution of new regulations, it is our sincere recommendation to establish this program to address the uniqueness of each Indian Nation's housing construction, architecture, building materials, et cetera. Our Tribe, for example, has been trying hard for many years to retain, to utilize our native architecture, native construction materials/methods, to retain our native aesthetics, but mostly to no avail due to Federal regulations being nonpermissive, no provision for this type of initiative by the Indian People. This legislation should provide that the standards provide for sufficient flexibility to permit use of different designs and materials.

ADEQUATE FUNDING OF OTHER FEDERAL AGENCIES

The present Indian Housing program does not only involve the local Indian Housing Authority and its local governing agency, it involves other agencies, other Federal agencies such as the Bureau of Indian Affairs programs, Realty Branch responsible for leases and title registration, and the Roads Branch responsible for the offsite access roads; Indian Health Service, Office of Environmental Health, who is responsible to oversee the adequacy of water and sewer systems. In the recent past few years (seven), these branches of the Federal Government as well as the Indian Housing Programs were zeroed out by the Administration's budgeters. Fortunately, through the efforts of Congress, we, the Indian Housing Program has been kept alive through appropriations of housing units each year. Unfortunately, however, ever since these other Federal agencies have been not receiving any funds for our needs, as the Indian Health Service, or have been receiving inadequate funding (Bureau of Indian Affairs, Branch of Roads), thus resulting in inferior services at the reservation level. We sincerely request that you do whatever is needed to obtain the necessary funding for these agencies so that they will assist us in carrying out, achieving our mission of providing safe, decent, and sanitary housing for our people. Without adequate funding, these agencies sometimes prove themselves as a hindrance, delaying the progress of the projects by not committing themselves to carrying out their portions of the responsibilities.

NEED

We have explained the location and the quality of our reservation.

We have an approximate total membership of Hopi at 10,000 individuals (9,874) based on the Hopi Tribe Overall Economic Development Program, 1986–1988 Annual Report.

The Hopi Tribe through the Home Improvement Program contracted from the Bureau of Indian Affairs through the Public Law 93–638 Indian Self Determination Contracting completed an annual housing survey "Consolidated Housing Inventory, Fiscal Year 1986." This report revealed that we have 1,538 homes on the reservation with 56 percent of the homes being in a substandard condition. Fifty percent of those units, 44 percent overall, considered as standard are the homes we have constructed under the auspices of the Housing Authority and HUD. We have a total of 333 homes built up to now. In addition, there are 868 considered substandard and 388 families need housing. This amounts to at least 1256 homes needed on the reservation, and this was in 1986.

At today's figures, it is estimated that a total of 700 new homes are needed with another 700 needing extensive repairs to bring them up to standard condition. By the year 2000, it is estimated that 1,000 new housing units will be needed. Multiply this amount by the total number of Indian Nations nationwide, this reveals an astronomical number of housing units needed, but today at a measly 2,000 units allocated each year, this situation is similar to either you, Chairman Inouye, or myself to be in a life-or-death hundred-yard dash race with the United States' fastest man, Carl Lewis, except that we have to run backwards.

This is only intended to point out that this measly appropriation is totally inadequate. We need more appropriations every year. We are grateful for the 2,000 units, don't get me wrong. We appreciate what we are getting today, but to someday eliminate this drastic, inhuman housing situation in Indian Country, we need more units every year.

We need not only adequate appropriations for new housing construction under HUD. We drastically need the Home Improvement Program under the Bureau of Indian Affairs to maintain, renovate our traditional homes and our current housing stock. Please see to it that this project receives adequate funding at the reservation level, not at the central office level.

NEW HOUSING, NEW HORIZONS

With the above, Chairman Inouye and members of the committee, we have expressed to you that we need, and we want a housing assistance program for our Indian People, a program that is adequate, appropriate, and one that we can work with.

The Indian Housing Program as it exists today has served its purpose. It has provided housing in Indian Country, but there are problems in it.

We have outlined to a small degree the problems and our recommendations to improve this system. When you receive input from the rest of Indian Country on this proposed bill, I am sure you will get other valuable information to finalize the bill with. One thing that we all agree on is that we need to set up the Indian Housing Program separately. Then and only then can we establish a program for the Indian People by the Indian People. I say this because I am one of the Board of Directors on the National American Indian Housing Council [NAIHC], and we as a national body have been pursuing this objective for several years. We will count on and will continue to work with you through the evolution of this legislation and we hope to enjoy this same commitment from you.

Fruit for thoughts. In the future, the Indian Housing Program should be set up so that the local Indian Housing Authority and the local governing agencies control the housing program for the Indian People with HUD providing the financial support. What this will entail is that each Indian Housing Authority will be granted funds for a certain number of housing units and a requirement that the Indian Housing provide a certificate to HUD at the completion of the project, the certificate certifying the adequacy, structural soundness, and the longevity of the units to be worthy of the financial assistance. This would allow the Indian Housing Authority to develop and build housing units more comparable, acceptable to their specific areas. The main requirement would be that the Indian Housing Authority build at least the specified number of units and that they are certifiable.

This process would eliminate the mundane volumes of regulations, monitoring requirements. All of Indian Country are normally considered as economically depressed areas anyway, so why income limits? Each Indian area has its unique traditional housing, native architecture, construction, and most of all, philosophy.

If we allow each Indian area the flexibility, opportunity to build the type of housing they want, then maybe they will be more acceptable of the housing units which would encourage payments and have a potential positive effect on TARs. Pipelines will not be a problem as when the Indian People become involved in and are able to produce what will be their product, this encourages movement of the projects toward timely completions.

We have testified before the Housing Subcommittee on Housing and Community Development, on February 24, 1988, supporting the bill, H.R. 3927, which is an attempt on that side to achieve this same goal. We hope you all will work together so that this mission will be successful.

Thank you, thank you very much for this pleasure to appear before you and we sincerely hope that this bill will survive and become law with the modifications recommended from Indian Country.

This completes my written testimony, and also I would like to present to the committee to be part of the record. I just got in late last night and we had our Regional Housing Authority meeting yesterday in El Paso, and this Regional Housing Authority, called Southwest Indian Housing Authorities Association, represents Indian Housing Authorities in the States of Arizona, California, New Mexico, and Nevada. And the membership there passed a resolution, and I would like to read that resolution and also submit a copy for the record.

Senator McCAIN. Without objection.

Mr. LABAN. [Reading.]

RESOLUTION 88-01

Resolution of the Southwest Indian Housing Authorities Association Supporting Senate Bill 1987.

Whereas, the Southwest Indian Housing Authorities Association, SWIHAA, is an organization representing 39 housing authorities in the States of New Mexico, Arizona, California, Nevada, and Texas, and

Whereas, Indian Housing Programs deal with unique problems and situations on Indian Land which are not adequately addressed in existing Public Housing Regulations, and

Whereas, due to economic conditions and unavailability of alternative housing on Indian Lands, the separation of Indian Housing Regulations from Public Housing as well as reduction of the 30 percent rule to 20 percent would help alleviate the housing problems in the rental programs: Now, therefore, be it

resolved, That the Southwest Indian Housing Authorities Association membership fully supports passage of the Senate Bill 1987.

It was passed yesterday by the membership.

Senator McCAIN. Thank you. Without objection, that resolution will be made a part of the record.

[Prepared statement of Mr. Laban and the resolution referred to appear in appendix.]

Senator McCAIN. Thank you for your testimony. Let me thank all the witnesses on this panel for their important testimony.

Ms. Spencer, as part of this bill, I believe it is section 208, there is a proviso that basically includes the Davis-Bacon provisions in this housing bill.

Are you aware of that?

Ms. SPENCER. I think the bill includes everything that exists in the program today, plus a couple of recommended changes.

Senator McCAIN. We had testimony before the House Interior Committee in previous years when I was a Member of the House, that indicated that costs of housing are sometimes increased by as much as 20 to 30 percent because of the Davis-Bacon provisions in the law.

Do you have any information along those lines?

Ms. SPENCER. Well, often in rural areas the prices are higher when you use Davis-Bacon wages in projects. So that can apply. NAIHC does not have an official position on the Davis-Bacon wage issue.

Senator McCAIN. I would appreciate it if you would find out their position and give us that position for the record, even if it's no position.

Ms. SPENCER. I would be happy to provide that, sir.

[Information appears in appendix:]

Senator McCAIN. Thank you. My point is that we are trying to—all the witnesses here today will talk about the scarcity of dollars and the difficulty in providing the needed funding for Indian housing. We have received testimony from, numerous tribal chairmen and tribal authorities throughout the country that objected to this provision because—not because either pro- or anti-labor bias, but because of the significantly increased costs of housing on Indian Reservations. And I would be interested if Mr. Thompson or Mr. Laban had any views on this issue.

Mr. Thompson.

Mr. THOMPSON. Thank you, Mr. Chairman. At this time we do not have a formal position, Mr. Chairman.

Senator MCCAIN. Are you aware that there is some concern about it?

Mr. THOMPSON. Yes; I am.

Mr. LABAN. Our informal position on this issue is that you are correct. In our area, especially, it has more or less more than doubled the cost of providing housing on our Reservation, and we have been trying informally to work around this issue. With our Reservation being a Trust status, we more or less try to adhere to the local regulations. We have worked with our area HUD office, and they have to issue us Department of Labor rates, and that's how we were able to get around this issue, and they have revised their rates, which is adjusted downwards, which is a little bit more acceptable in our area.

Senator MCCAIN. Ms. Black Elk, do you have any comment?

Ms. BLACK ELK. As you are aware, South Dakota is a right-to-work State, and we——

Senator MCCAIN. So is Arizona.

Ms. BLACK ELK. We have found that, by observing the standards established in our region and in South Dakota, that we do not have higher costs, but we also have these same provisions, almost the same language, embodied in Tribal law.

Senator MCCAIN. Thank you.

Mr. Thompson, is it true that the HUD program is attempting to meet some of the housing needs on Navajo Reservation through the voucher program?

Mr. THOMPSON. Thank you, Mr. Chairman. At this point in time, we have not pursued the voucher program as it is relatively new. However, insofar as the intent of the voucher program, we believe, and we strongly believe it simply will not work on Navajo, for the simple reason that basically, as I indicated in the testimony, the private housing in non-existent out there on Navajo.

Senator MCCAIN. Could I ask all of the panel members, starting with you, Mr. Laban, how the problem of homelessness is addressed on Indian Reservations in Trust area?

Mr. LABAN. Multi-family housing. There are people—it is virtually, as far as the title "homelessness" is concerned, on a reservation it is not there, because our families are so close-knit that if a family does not have a place to go, they just move in with the other family members. We have very small buildings housing multi-families. It creates a very unhealthy situation.

Senator MCCAIN. Ms. Spencer, would you like to comment?

Ms. SPENCER. Generally, we have defined homelessness in Indian Country as doubling and tripling up families. I think in urban areas that is no longer true, and you do have homeless Indians in urban areas. So, on the Reservation it's a little bit different.

VOICE. Average occupancy of our units is designed for five and a half people. Our average actual occupancy is 12-⅓ persons in each unit. So we have what we call subfamilies residing in one house.

Mr. THOMPSON. With regard to homelessness on the Navajo Reservation, Mr. Chairman, the situation is very real. There are instances where individuals who literally, of course, live in tar paper shacks, tents, in back of pickup trucks, old school buses and the like. In a situation of that type, the Navajo Nation has tended to some degree providing temporary housing accommodations for those types of homeless families.

Senator MCCAIN. Thank you.

Mr. Chairman, do you have any questions for the panel?

The CHAIRMAN. Yes, I would like to make a statement, if I may.

The product we have before us, S. 1987, is one of the examples of a mission that we sought early last year. As some of you recall, at that time, in assuming the chair, I announced that the time had come to go out into Indian Country to seek Indian solutions to Indian problems, and this is an example of that mission. But like all measures before us, somebody, some groups have to do the work. Obviously, we will take the credit. This is the work of the staff of the Select Committee on Indian Affairs, on both sides of the aisle. We don't have majority staff or minority staff, it is just one staff. And this staff effort was led by a Comanche Indian, Mike Mahsetky. So if you want to thank any member here, you thank Mike.

And I was told that the question of homelessness was covered in great detail here.

The only question concerns the Administration's suggestion that they could reach about the same results through the regulatory process. What do you have to say about that?

Ms. SPENCER. We are talking about a statute here, and I have yet to see HUD and this Administration initiate this kind of legislation for anybody in housing, much less Indians. So I think it is more important that we codify the program as it is now and work from there.

The CHAIRMAN. The Director of Housing in the Navajo Nation suggested that, in order to centralize the activities and to place greater emphasis on the importance of this housing problem, that we designate an Assistant Secretary.

What are your views?

Ms. BLACK ELK. I am Charlotte Black Elk from Oglala.

I think that would be appropriate. I think that for too long we have been treated as the unwanted stepchild of the Housing and Urban Development programs. I think to have access, to have better dialog and a better working relationship with HUD, that it would be appropriate to have an Assistant Secretary for Indian Housing.

The CHAIRMAN. Mr. Laban, do you feel the same way?

Mr. LABAN. Right. We need somebody in there that has the interest of Indian Housing at heart and would give it the attention that we need.

The CHAIRMAN. Well, obviously we cannot guarantee that whoever is appointed will have an Indian heart. [Laughter.]

Mr. LABAN. Indian at heart, not Indian heart.

Ms. **Spencer**. I think it would be a wonderful suggestion. I would not want to see us compromise everything else if we weren't able to gain that. But it would be a terrific rating up of attention to Indian Housing within that Department, which we don't have now.

The **Chairman**. If you have any further statements you would like to submit, as I indicated, the record will be kept open until the close of business Friday. I would like to advise all of you that we will have the markup on Thursday, the 28 of this month.

I thank you all very much.

The **Chairman**. Our next panel consists of the Chairman of the Red Lake Band of Chippewa Indians, the Honorable Roger Jourdain. He will be accompanied by Mr. George Gaaswig of the Red Lake Reservation Housing Authority.

Then the Chairman of the Lac du Flambeau Band of the Chippewas, of Wisconsin, the Honorable Michael Allen. And Chairman Allen will be accompanied by the Director of the Lac du Flambeau Housing Authority, Ms. Julie Valiere.

Then we have the Honorable Bill Anoatubby, Governor of the Chickasaw Nation of Oklahoma, and he will be accompanied by the Executive Director of this Housing Authority, Mr. Ted Key.

And then the Chairman of the Assiniboine and Sioux Tribes of the Fort Peck Reservation, of Montana, the Honorable Raymond White Tail Feather.

As I indicated to the first panel, if it is your wish to summarize your statements, please feel free to do so because your full statement will be made part of the record.

Now I would like to call upon my dear friend, whom I see quite often, Chairman Jourdain.

STATEMENT OF HON. ROGER JOURDAIN, CHAIRMAN, RED LAKE BAND OF CHIPPEWA INDIANS, RED LAKE, MN, ACCOMPANIED BY GEORGE GAASWIG, RED LAKE RESERVATION HOUSING AUTHORITY

Mr. **Jourdain**. Thank you, Mr. Chairman, Senator Inouye.

We are back here on a different subject regarding the Indian Nations across the country regarding the housing situation.

It is long overdue that the American Tribes be recognized, as has been stated time and time again. Historically they have been recognized on a government-by-government basis. And it has been minimized about their recognition over a period of years because many, many tribes have failed to challenge the U.S. Government, particularly because of our leadership, which misled us, misrepresented us to the Bureau of Indian Affairs and the Secretary of the Interior. I say that with all kinds of qualifications under my term of office as chairman.

And the bill which you have here today certainly reflects your pledge to be an advocate and ally of the American Indians. I have taken that back to the Reservation and other people time after time to impress on them, "You better get busy and get some letters into the Senator, your Congressman, and everybody else. We don't have any lobbyists. We've got a few that misrepresent you. They are expert opportunists who will come about acquiring consultant contracts, sole source contracts, as inherited after you serve the Bureau of Indian Affairs for 20 years."

If we could shut down all the consultant contracts, we could build all the homes we need up on the South Dakota Lands. And maybe Ron Pete would have to go to work somewhere else.

But S. 1987 certainly has been long overdue for the simple reason, in the early days of my career, working with the Senators, you happen to be an attorney, I made use of them, as when he has better sense of direction then, and he undercovered the workable program. He says, "Here, Roger, you take this home now and look on page so-and-so and get your Housing Authority organized." And the Senator I am talking about is none other than Walter F. Mondale.

So he helped pioneer the housing upon Reservations without the help or any encouragement on the part of the Bureau of Indian Affairs, Secretary of the Interior, or anybody else.

Years ago, Franklin Roosevelt came out with a Public Works program. The superintendent said, "All right, let's some meaningful projects going." So he got his road engineer, his superintendent of construction, you put a program together. And we had lumber piles developing during the Depression, right in front of our eyes. The superintendent of construction was a Red Lake member, and he said, "Let's go into housing." One-bedroom homes for the elderly, two-, three-bedroom homes. And they were sent in. I was a youngster, observing, listening. And we came down here to the Commission of Indian Affairs and they completely rejected that, "No."

However, all that lumber went to waste, destroyed right in front of our eyes. They had to carry it out to the dump ground and burn it up. This had lingered in my early life, about the need of housing. So this is how come we helped develop a meaningful housing program on the Red Lake Reservation, with the help of our former Senator. I wish he was still there instead of going through that darned White House.

Now, we also developed a Red Lake Homebuilders Training Program. In the early days of the OEO. They can say what they want to say about the OEO program. It certainly did fight the war, and we did use some of the weapons that it gave us, the financial weapons, to develop a Housing Program on the Reservation. We cranked out the first Homebuilding Training Program because we lacked a building tradesman.

As an end result, we were cranking out the—we fought against the unions, to begin with. They said no, you can't have that up in the Reservation. So I went to their executive counsel, I said, "Listen, when I tried to join your union many years ago, it took me a year," I says. I says, "You're not about to deny us now."

So finally, at the third trip to the executive meeting, I says, "You better give that wild chairman from Red Lake a letter of endorsement. He's not gonna leave us alone." However, we insisted that we have journeymen to train the building tradesmen.

Now, the reason I'm talking about this is that this is the realities of life that have provided some incentive on the part of our people to obtain more housing, better housing all the way through, and also provide an opportunity, a visible project that they are all going to be proud of, and they're all proud of it, of the housing we have, over 400.

We also have the State Housing Finance Corporation giving us a million and a half a year to loan out at five percent interest. Everybody is qualified but the chairman. So I'm going to beg that you insert here a certain provision that a chairman get a house.

Now, about the Bureau of Indian Affairs that never intended to help us. We had an agreement in 1962 with the HUD and the Indian Health, and I hand-carried that through the late Philio Nash, my friend, and he failed to join the Memo of Agreement for the housing development on the Reservation. He says, "We can't commit our roads department for any housing development." So the end result, the Bureau of Indian Affairs has deteriorated to the point now, all they're worried about is the back sheet of their performance record is supposed to be unblemished. That's the way they sit there all day long.

I just came from the area office in Minneapolis yesterday with a challenge of their regulations. Of course, I lost out. But, nevertheless, this housing is certainly more important than anything else, and when they took it out of the State of Minnesota Indian Housing into the Chicago office, it turned out to be a political football. We've got to eliminate the political aspect in these regional offices. And those that don't have the political clout, don't have the proper representation here by the Senate or the House, they are the ones that are going to be faced, that will remain at the bottom of the totem pole. This policy is going to have to be eliminated.

And also, we are certainly involved in, that the Housing Program, the requirements be eliminated to some degree so everybody can participate regardless of income. Those that are not capable of paying their rent regularly, they're the only ones that are qualified. Sure, we need to provide homes for those people, but what about the other people that are pursuing productive lives, with a job, hanging onto it for dear life. They can't get a home. That's another problem we have.

There are many problems I can relate to you here, but the panel before us certainly did cover a lot of ground, and I certainly want to endorse many of the statements that they made. And I'm sure my Housing Authority Director, George Gaasvig, will certainly qualify this, because he's been our work horse, he's at the ground level, and he has worked very cooperatively with the council and the people on the Reservation. He has caught a lot of flack because he gives a house to Jourdain's brother, or Jourdain's grandma, or Jourdain's this. Everybody gets a house but the Jourdains, I'll tell you that. George sees to that. There's no nepotism or any parentism. We give it to everybody.

Now, I would like to conclude by saying, under the last 200 years, when we were reviewed, the Alliance reviewed the Constitution of the United States. It says in the Constitution that Congress is empowered under the commerce clause to deal with foreign nations, states, and tribes, Indian tribes.

We fail to find the provisions that give Congress the preliminary powers to come along and say, "We've got to provide some kind of Federal legislation to regulate your Bingo operations at home." We don't need that. We're quite capable of exercising our sovereign authority at our Reservation and to provide the necessary activities that are going to be meaningful and healthy for the benefit of our people at the Reservation level.

I said this year at some of the conferences, for the last 200 years, if they had lived up to the Constitution of the United States, fine, we'd be better off today. However, you gave the authority to the Secretary of the Interior to manage our affairs completely. What did they do? Completely destroyed the American Indian. We relied too much on the Bureau of Indian Affairs. And they systematically used all the proceeds after they sold our valuable resources, where we could have bought homes, or built homes on the reservation with our resources. But no, the only ones that got good homes are the Bureau of Indian Affairs employees, with our money. They systematically pauperized us. We're bankrupt as you can ever be.

And something is going to have to be done here by Congress, the only body that can make the Bureau of Indian Affairs come to time. They should stand right here. They should take an oath before they testify on anything.

I've been trying to drag Ross Summer into court, because he says he's going to farm out contracts of all the trust funds to some private organization like the Mellon Bank that went bankrupt. He's trying to be allowed as our bank friend, at our expense.

We had a 50-year audit on our account before it moved. Now, that is something that ties in with the housing. There's a fight all the way across the country. I hear the stories all over, same thing, but we're all afraid to speak up and be counted. That's our problem. And fortunately, I have the encouragement of the Honorable Chairman here to say that I'm your advocate, I'm your ally, and he says, "It's up to you to make your presentation." He means not only me, not only Red Lake Chippewas, but he means every chairman across the country, and every delegate that comes into Washington.

Forget the bright lights, you take care of them after you get home. You get mugged if you walk around here too much anyway.

But we have some questions about the homeless. That was pretty well answered by the exchange here. But I was going to offer an amendment here for some of my friends from South Dakota that the homeless two girls will be taken care of up on the Red Lake Reservation providing we have a separate to the housing.

I am going to conclude by saying we're going to be behind this bill all the way through, and I think that we sent a letter in the early history of the development of this here, and we're going to have to increase the units. What is 1,000 units for 394 tribes to fight over? I said that in Phoenix 1 week ago Monday. A thousand units, can you imagine, 1,000 units. We should have 1,000 units for each State every year, to catch up.

Then we are discouraged, we are not providing to provide employment. That's hand in hand. Everybody who reads the stock market, you see the Wall Street report, everybody is just happier than heck, or building trades are happier than heck when the housing starts to climb 1.5, as I read last night. They're happy. Savings and loans are happy. But everybody but the U.S. Government is happy about the American Indians having a job out of building 1 home, 10 homes, 100 homes.

With that I am going to conclude and turn this over to my housing authority, but I want to say thank you again about this—you mentioned something about the Davis-Bacon Act. Well, we've been successful in the Chicago off by reducing the, tailoring the requirements under Davis-Bacon to meet with the existing craftsmen's wages. Because you go in there with a 20-dollar-an-hour operator or labor wage, you upset the economy at the Reservation. When this job is all complete, then nobody will want to work unless you pay them $20 an hour. They have to be according to our local economy, period. Sure, let's keep the Davis-Bacon Act, but have it tailored down.

Now I am going to conclude by saying that I want to be sure that everybody remembers that we don't want any separation of powers as far as the housing is concerned. The Red Lake Council had to organize a housing authority, and it says in there you couldn't pay them any mileage, you couldn't pay them any expenses for leaving their jobs. So we appointed all the * * * because we were authorized to pay a per diem on any given assignment. So this is the way we've been working it.

And I want to thank you again, sir. I hope I can come back on another subject by taking the Bureau of Affairs, using your hearing room. Let's have a hearing with the Bureau of Indian Affairs and let's make them honest.

[Prepared statements of Mr. Jourdain and Mr. Gaasvig appear in appendix.]

The Chairman. Yes, sir, Mr. Chairman.

May I now call on Chairman Allen.

Mr. Allen. Thank you.

The Chairman. Excuse me. Does Mr. Gaasvig want to say something?

Mr. Jourdain. He's been sitting here. He's been working day and night polishing it up. Otherwise, we will not pay his per diem if he does not speak a word here. [Laughter.]

Mr. Gaasvig. Thank you, Mr. Chairman. I would like to make a brief statement for the record.

Mr. Chairman, the Red Lake Housing Authority is this year celebrating its 25th anniversary in providing housing to the Indian people at Red Lake. I have been there for the last six years, and the passage of S. 1987 would represent the culmination of a 4-year effort to direct change to the Indian Housing program, when in fact, there really is no Indian Housing program available to Indian people in this nation. It's a public housing program serving Indian people. S. 1987 would, for the first time, bring together a program to address the needs of Indian people, long overdue.

I am continually saddened in my position as a housing director, to have to turn away families as they come to me for a last resort in housing, and especially for the children. And, as Mr. Laban referred to earlier, the children are the hardest hit by the atrocity in the fact that they have to go into a home of doubling up with 2, 3, and 4 families, 10, 15, and 20 people in a building sharing the same kitchen, sharing the same bathroom, the same bedrooms. It's an atrocious situation.

Mr. Jourdain reiterated that the need is for many more units. I exemplify that, that direction.

The development and administration of the homes in Indian country will be greatly enhanced by the passage of S. 1987. The cumbersome regulations could be diminished when we can concentrate an effort towards changing and addressing the needs of Indian people, rather than trying to make a program designed for urban areas fit in a rural setting. It just hasn't worked.

It amazes me, in Mr. Jourdain's reference to the Bureau, that in previous hearings I heard them come in and request funding for the equivalent of one or two units per reservation, when in their own surveys indicate that the need for over 90,000 units. I'm amazed that they are not coming in and at least referencing the need for 90,000 and are leaving the delegation of what kind of funding will be provided up to Congress. It seems that they are short-circuiting the system and giving the false impression that the need is being met. HUD also has done this. They come and say, "Well, you know, everything is fine in Indian country. We only need a 1,000 units to get by," and this is a totally false picture.

I am equally appalled at the Administrations reneging on the 2,000-unit allocation that was agreed to in the marathon negotiation sessions of last December, where since the Administration has cut that 2,000 allocation to 1,000 units.

I am at a loss to come up with another program that was negotiated during that period in December and since has been cut by 50 percent. The Assistant Secretary, the Deputy Assistant Secretary for HUD has referred to Indian people, in my presence, as an insignificant universe. I do not feel that homeless people, Indian people are an insignificant universe. I'm appalled by that attitude. I believe that it's wrong. It's wrong to refer to the homeless Indian people as an insignificant universe.

Just because these families do not have the mechanism for expressing their needs, it is not our position to diminish that need.

As you will see in ~~our~~ written testimony submitted for the record, there are answers to addressing the needs of housing for Indian people. These answers do not always infer an additional funding base. It represents that there are many ways to address an issue. We have many answers that can be presented.

Finally, Mr. Chairman, the short-term need, immediate need, is for housing, but the long-term solution is employment on reservations, and until the employment needs are met, the housing situation cannot improve to the dramatic needs necessary.

Thank you very much.

The Chairman. Thank you, Mr. Gaasvig.

And now may I call upon Chairman Allen.

STATEMENT OF HON. MICHAEL ALLEN, PRESIDENT, LAC DU FLAMBEAU BAND OF CHIPPEWAS, LAC DU FLAMBEAU, WI, ACCOMPANIED BY JULIE VALLIERE, DIRECTOR OF HOUSING, LAC DU FLAMBEAU BAND OF CHIPPEWAS, LAC DU FLAMBEAU, WI

Mr. Allen. Thank you again.

Mr. Chairman, honored members of the committee, my name is Michael Allen, Sr. I am the President of the Lac du Flambeau Band of Lake Superior Chippewa Indians. Our tribe and reservation is located in northern Wisconsin.

I am here today to express my tribe's strong support of S. 1987, the Indian Housing Act of 1988, and urge you to work aggressively to ensue its quick enactment. I believe that the main message you will hear from Indian country on this bill is that it is the most promising way to address, at last, the ongoing crisis in Indian housing.

For more than two generations now, you and those who came before you have heard the urgent plea from Indian country to assist us in putting an end to the travesty that passed for housing on Indian reservations.

Up to now, our unique needs have been addressed only the Housing Act of 1937 programs, generally applicable across the country, with housing for Indian country included within the general low-income housing appropriation.

S. 1987 would provide a realistic approach, at last, to addressing these concerns.

Our tribe's situation illustrates the problems to be addressed. Our tribe's reservation of 84,000 acres is located in prime lakeshore vacation country, and it contains many beautiful seasonal and year-round lake homes. These belong to non-Indians, on fee land lost through the allotment process along lakeshores generations ago. When lots go for $25,000 and upward, such homes are beyond the reach of all but a tiny, tiny fraction of our members but stand as a daily reminder of the yawning gap between the promise of the American dream and the grim reality of economic destitution.

That reality begins with a depressed economy. Over 60 percent of the tribal on-reservation adult population is unemployed, and thus eligible for low-income housing. Our Housing Authority maintains 273 rental units and 60 units in homeownership programs. But we have a current waiting list of 180 families and 37 elders for admission. Our average yearly income on the reservation is roughly about $5,000. The percentage of the negative rent people are about 30 percent of the rental base. The incentive is lost by persons who are paying rents because of the negative renter situation. Thus I feel all should be paying a minimum rent.

The need is greater still, and at present can only be met by unsafe, unsanitary and overcrowded substandard housing.

Indian housing needs are unique and must be addressed separately for low-income housing needs, and must reflect the unique role of tribal government in the Federal system. Section 201 of the bill does that, and we welcome it.

The high 30 percent level is driving families into substandard housing and substantially increasing housing authority management problems as receivables increased. This high rent level is our number one problem with our existing housing, and the most important aspect of this bill is that reduction in rent it embraces. The 20 percent level is more realistic and affordable, and will insure that families won't have to choose between rent and food.

In the past, houses have been shortfunded on a per unit basis because the State averages haven't taken account of higher construction costs due distance from suppliers and lack of competitive bidders.

In closing, let me say this. While we support the bill and believe it has widespread support in Indian country, I feel that its passage would bring only empty promises, not real change. Real change will occur only if the authorizing legislation is accompanied by an appropriation to match. Without recognition on the appropriations side that there is increased financial needs in Indian housing programs, the Indian Housing Act of 1988 will remain only another hollow gesture, another unfulfilled promise to Indian people.

We ask your support for the bill, but we also ask that your support not end with the enactment. You must also be committed to fund the legislation at an appropriation level that will allow us to build and maintain decent new homes on our reservation and the reservations across the country. With this bill and the money to support it, we will do the job.

Thank you.

[Prepared statement of Mr. Allen appears in appendix.]

The Chairman. Thank you very much, Chairman Allen.

Ms. Valliere, would you care to say something?

Ms. VALLIERE. I would just like to say that the 30 percent level is causing dissension on our reservation. The people think that they all should be equal, and this 30 percent rule says they're not equal.

Thank you.

The CHAIRMAN. Thank you very much.

And now may I call upon Governor Anoatubby, of the Chickasaw Nation.

STATEMENT OF HON. BILL ANOATUBBY, GOVERNOR, CHICKASAW NATION OF OKLAHOMA, ADA, OK

Mr. ANOATUBBY. Thank you, Mr. Chairman and members of the Senate Select Committee on Indian Affairs.

We appreciate the opportunity to have input into the legislative process. We think it's a great honor, and we would feel such is a direct evidence of the democratic process at work.

My name is Bill Anoatubby. I am the governor of the Chickasaw Nation, and we are located in Oklahoma, which, of course, is not a reservation State. We do, however, serve a jurisdictional area of some 7,638 square miles in the central portion of Oklahoma, which has an approximate total population in that area of 250,000. About 10 percent of those are Indian people. That 25,000 group is our service population.

In the general review of the Senate Bill 1987, I've prepared comments, and you have those on file, and I will simply summarize, for the benefit of the committee this morning.

We feel that the legislation is good. We support the separation of Indian Housing programs from those of Public Housing. We think it is a strong beginning for Indian Housing. We participated for years, we share the same feelings as many of those who have already testified this morning, that even though we've had Indian housing, they have not necessarily been directed toward Indian needs.

The regulations which govern Indian Housing are basically the same for Indian Housing as they are in Public Housing. We feel that there should be some special recognition, and we believe the legislation which provides exceptions is certainly one that's been needed for quite some time.

Also, the regulations must have an exception. Currently there are no provisions in the regulations except for, in the Mutual Help Homeownership Program, which provide for the unique status of Indian tribes.

We, in Oklahoma, because our boundaries include non-Indians, the same treatment is given to non-Indians in the low rent and section 8 programs as any other Public Housing Authority uses. It provides somewhat of a problem for us because we feel the funds that are directed toward the Indian Housing Authorities are intended for use by Indians, and we feel that, within the legislation somewhere, it needs to be recognized that Oklahoma Indians should have preference for housing within these programs.

We feel that, in the current rules and regulations, that the lack of Indian preference, that needs to be addressed in the regulations. It is a logical extension for Indian Housing Authorities to provide housing only for Indians.

We also feel very good about the section 209(e) of including the tribal governments in the process of housing. Input from the tribal governments for purposes of planning, and so forth, is very positive.

The Chickasaw Nation and the Chickasaw Housing Authority enjoy very good relationship, and we have a cooperative relationship, but we feel that, without that connection between the Housing Authority and the tribe—and it's not always the case in other areas of the country, in other parts of Indian country. So we appreciate that inclusion within the bill.

We would like to make one other suggestion, however, that when legislation regarding Indian tribes or regulations are proposed that, rather than simply Indian Housing Authorities in the input that the tribal governments themselves should also be included so that we can have them put into the regulations.

We find that, in the past of course, that we've had a great more input and have more impact on legislation than we have in changing any regulatory requirements.

There was some mention made of the Davis-Bacon rules, and, with your permission, I'll go ahead and address that.

We certainly feel that all people should receive a fair rate of pay. There were sometimes in the use of Davis-Bacon, the prevailing wages that are used are not necessarily those that are reflective of the area. I think that would be the major problem we would have with it. If the wages were more reflective of the rural areas that we serve, it would be much better used.

Also there was some mention of the percentage being used in computation for the rents, and we support the 20 percent figure. We feel like that is much better for our people.

Also, income guidelines over the years have been changed for the people, and, in particular, Oklahoma faces a different problem from what most of the other reservation tribes do. In Oklahoma we have some 77 counties, 13 of which we have Indian housing. Each county has a separate income guideline. It makes an administrative nightmare to keep track of these things, and when you have neighbors that live across county lines from each other, they wonder why they're paying different rents. We feel that, within the Housing Authority jurisdictional area, that uniform income guidelines be used, whether they be set by the Indian Housing Authority, which in this case is preferable, or those set by HUD. We would appreciate consideration of that problem as far as Oklahoma is concerned.

As far as the homeless is concerned, another question that was asked, of course you have to get back to the basic reason for people being homeless, and many times the Indian tribes do not have the resources necessary to address this problem. And, even though we see the problem, sometimes even the income guidelines set forth by HUD will not allow us to serve someone, because they're below what is called the very low income. I'm not sure what the solution is. Our tribe is, of course, involved heavily in economic development projects where we might be able to create a different source of revenue other than those that money is provided by the Federal Government for programs. And that may be one solution.

But we see it, we'd like to see something done about it. If there's some mechanism that could be used within the Department of Housing and Urban Development, we certainly encourage its use.

Mr. Chairman, I thank you very much for allowing me to make these few comments, and I will now turn it over to Mr. Ted Key. Thank you.

[Prepared statement of Mr. Anoatubby appears in appendix.]

The CHAIRMAN. Mr. Key.

STATEMENT OF TED KEY, EXECUTIVE DIRECTOR, CHICKASAW NATION HOUSING AUTHORITY, ADA, OK

Mr. KEY. Yes; my name is Ted Key and I'm the Executive Director of the Chickasaw Housing Authority. In addition to that capacity, I represent my region, which includes five States, Texas, Kansas, Oklahoma, Louisiana, and Arkansas. In that capacity, there's 26 Housing Authorities I represent, which also includes 200,000 Indian people.

We have had a recent meeting concerning this bill. We've discussed, not necessarily cussed it, and we have information in my testimony that has been submitted about specific language we would like to see considered, possibly entered or substituted for what's there now.

Other than that, I think my Governor has pretty well spoken to the issue, and definitely you have our support on this bill from the five-State region I represent.

And thank you very much.

[Prepared statement of Mr. Key appears in appendix.]

The CHAIRMAN. So you have drafted specific language to address your unique problems in the non-reservation area?

Mr. KEY. Yes, sir. In fact, that's the meet of my testimony that has been submitted already, but I will, if necessary, add more.

The CHAIRMAN. I can assure you that we will study them very carefully, and, in fact, the staff is already addressing that problem.

Now I would like to call upon Chairman White Tail Feather.

STATEMENT OF HON. RAYMOND WHITE TAIL FEATHER, CHAIRMAN, ASSINIBOINE AND SIOUX TRIBES OF THE FORT PECK RESERVATION, POPLAR, MT

Mr. WHITE TAIL FEATHER. Mr. Chairman and members of the committee, I am Raymond White Tail Feather, Chairman of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation. With me this morning are two members of the Housing Authority, Mrs. Pearl Hopkins, who also is a member of our Council, and Mrs. Juonita Hunkapiller. I see there was not enough room up here for all of us to sit, but if need be, they can be called upon for questions at a later time.

I just want to express my appreciation for having the opportunity to testify on S. 1987, a bill that I believe has been long overdue, which will establish a separate program providing Indian housing assistance for Indians and Alaska Natives.

The Fort Peck Tribes strongly support establishing a firm foundation in Federal law for the Indian Housing program. For too long, the HUD Indian Housing program has been governed by public housing statutes which were not intended to deal with the special housing needs in Indian country. S. 1987 would change this, and thus improve efforts to provide decent, safe and sanitary housing for the Indian people.

The Fort Peck Housing Authority was established in 1968. The Authority administers 750 units of housing. Of these, 346 are low-rent units, 70 are Turnkey III, and the remaining 334 are mutual help units. We have a waiting list that ranges from 350 to 500 people. These people are living in grossly substandard housing—this is particularly true of the elderly people on the waiting list—or crowded into units that really have no room for them.

I would like to address four areas that I feel are of major concern, and which have already been addressed, but I think they need to be reiterated and reemphasized.

The first one concerns rental payments. For several years, HUD has required that rental payments be set at 30 percent of adjusted gross income. This was taken directly from public housing requirements and has caused considerable hardship on our reservation.

At Fort Peck, much of the available work is seasonal. I think this has already been expressed by many of the other representatives from the tribes that have given testimony. And they are out of work, they are in "no income" status, and the only rental payments received by the Housing Authority is the $45 per month from HUD for administrative costs. When work is obtained, these families need the additional income to pay back bills and also to purchase necessary items that they cannot afford at other times of the year. However, when the rent shoots up to 30 percent of adjusted income, much of the income needed for these purposes is consumed by the rental payment. In effect, families are penalized for working. Some families have actually stopped accepting seasonal work because they end up worse off financially.

We are pleased to see that S. 1987 would reduce rents to 20 percent of adjusted income, and would also allow some flexibility to the Housing Authority in setting rents. This will be of great assistance to the working people of the reservation.

The other area I want to discuss concerns allowing more low-income families into the mutual help program. HUD requires the tenants in Indian housing to be 95 percent very low income and 5 percent low income. This mix of very low income to low income tenants may be appropriate for housing projects in large cities, but it does not work well on Indian reservations.

We have a drastic housing shortage for low income families. These families are best served by the mutual help program, which enables them to build up equity and then own their home after 20 years. However, with the current requirements on income mix of tenants, we cannot use our mutual help program in the most effective way. For this reason, we strongly support the provisions of S. 1987 that would change the required mix of tenants to 70 percent very low income and 25 percent low income.

The other area that I would like to address is the tri-agency agreement. Now, this was also discussed, but I think it needs to be reemphasized. Not all funds necessary to develop Indian housing come from HUD. Funds for water and sewer come from the Indian Health Service, and funds for roads and related purposes come from the BIA. For this reason, these three agencies have entered a "tri-agency agreement."

This arrangement works well where the Indian Health Service is concerned. However, the BIA just does not come up with the necessary funds. To cover the shortfall, we sometimes have to subtract funds from the development package, and sometimes the tenants themselves contribute to the cost, which they cannot afford. The BIA occasionally comes up with needed funds, but it is like pulling teeth to get them to do so.

We do not understand why this happens because the BIA receives ample funds for roads from the Federal Highway Trust Fund. We would appreciate the committee's help in investigating this matter in order to determine why adequate funds are not being allocated to meet the BIA's obligations under the tri-agency agreement.

The last area that I would like to discuss concerns Turnkey III units. Under the Turnkey III program, which ended in the late seventies, HUD turned houses over to the tenants on a 20-year lease with an option to buy. We still have 70 Turnkey III units on our Reservation. The tenants are required to pay 20 percent of their income for the unit, with $67 per month as the minimum payment. Regardless of how much they pay, only $12 per month goes to building up equity, meaning that at the end of 20 years these tenants will not come close to owning their homes. Also, only $12 per month is used for maintenance, with the result that many of the units are falling apart.

The tenants would be better off if they could be released from their obligations to HUD and own their homes outright. We have requested this "debt forgiveness" program for a long time, and in fact Congress authorized it in 1986 as a part of the budget reconciliation bill.

However, HUD has not implemented debt forgiveness and is undecided whether to do so in Indian country. We ask this committee to include a provision in Senate Bill 1987 mandating HUD to implement debt forgiveness in Indian country immediately.

We would also like the authority to repair some of the Turnkey III houses and convert them into low rent units, with the current tenants being placed into the mutual help program. We ask that Senate Bill 1987 be amended to authorize conversion of Turnkey III units into low rent units.

Mr. Chairman, that concludes my testimony, and I thank you for the opportunity.

[Prepared statement of Mr. White Tail Feather appears in appendix.]

The CHAIRMAN. Thank you very much, Chairman White Tail Feather.

I think all of you have made it very clear that the present HUD Public Housing program, which was primarily designed for urban areas, has not worked too well on Indian reservations.

Do you have any information as to how long it takes for a HUD unit to be built on an Indian Reservation? What is the average time span?

Mr. GAASWIG. Mr. Chairman, it is approximately 2 years from the unit allocations to DOFA, which is the Date of Flow Availability.

The CHAIRMAN. How does that compare to the urban areas?

Mr. GAASWIG. I would not have that answer.

The CHAIRMAN. In your reservations, you have low-income people and those who are not designated as low-income.

Do these non-low income families have access to conventional forms of financing for construction, or do they have any access?

Mr. KEY. I am from Oklahoma. Those that are not considered low income or very low income do have access to some funding mechanism, so I think a better person to address that would be——

The CHAIRMAN. But you are not in a reservation?

Mr. KEY. No; former reservation area.

The CHAIRMAN. In the reservation, do they have any access?

Mr. GAASWIG. In Minnesota, at Red Lake, we have a unique program, the Minnesota Housing Finance Agency, which fills a void that's just above the maximum incomes to be eligible for the HUD program, but falls short of addressing the balance of the income levels at the reservation level. And beyond that, there is no program available to these individuals.

The CHAIRMAN. So what do they do?

Mr. GAASWIG. Many of them live off reservation, are forced off reservation because of the lack of a program to address it.

The CHAIRMAN. What does HUD allow for a per unit cost to construct dwelling units on reservations?

Mr. GAASWIG. Currently it's approximately in the $50,000 range, but that is not for just dwelling construction. In our area, that includes interest, it includes administration charges during the construction, many other variables that go into it. But the $50,000 is a TDC, they call it, Total Development Cost.

The CHAIRMAN. Is that adequate?

Mr. GAASWIG. In most cases the units have had to be bare-bones units in order to meet that funding level. The units cannot be expected to live out the life expectancy that a normal unit would if funded appropriately.

The CHAIRMAN. What proportion of those who are involved in the building of these homes, the carpenters, and craftsmen are Indians residing in the reservation?

Mr. GAASWIG. At Red Lake, when we get a housing program and we are able to have a local construction company undertake the construction of it, we will employ 90 percent local tradesmen.

The CHAIRMAN. Local, or reservation?

Mr. GAASWIG. Reservation. Local is reservation in our context.

The CHAIRMAN. Is that the situation all over?

Mr. KEY. Yes; even in my area, the same thing. About 90 percent Indian-owned firms, subcontractors and general contractors, are used, overall.

Mr. WHITE TAIL FEATHER. Mr. Chairman, I would like to go back to that first question that you answered about other loans, or mortgages available for Indians on reservation. On our reservation, probably about ten percent would be able to qualify for such things as FHA and other loan, mortgage programs. We have approximately 4,500 enrolled members that live on our reservation, and the majority of those depend on Indian housing. And that, I feel, is very critical that we continue to increase the allocations for Indian reservations.

Also, on our reservation, we adhere to Indian preference in contracting and in hiring.

The CHAIRMAN. Among your members are many veterans. Are they able to benefit from laws that provide certain advantages to veterans in the United States? FHA loans and such?

Mr. ALLEN. We get a few that are like that on our reservation that they do benefit from, I guess, FHA. They go through that process to get help.

The CHAIRMAN. Is that the same all over?

Mr. GAASWIG. Most of the veterans at Red Lake are given preference where it is applicable, yes.

The CHAIRMAN. Well, as I indicated earlier, we intend to move this matter as expeditiously as possible, and if I may, once again, tell you that the record will be kept open until this Friday, and we will have a markup next Thursday, the 28th of April.

Senator Daschle, do you have any questions?

Senator DASCHLE. Mr. Chairman, I appreciated the testimony again this morning, and certainly your questions even further enlighten it. But just to give me a better sense nationally, it is my understanding that there are merely 1,000 houses authorized for this fiscal year. To anyone interested, is that correct? On a national basis?

Mr. GAASWIG. For this fiscal year, meaning 1988.

Senator DASCHLE. Right.

Mr. GAASWIG. There are 2,000 units authorized, of which some 1,700 will be new appropriations and the balance is coming from recaptured units, which we believe was not the intent when the 2,000 units was originally authorized.

Senator DASCHLE. So your answer is that 2,000 are authorized, 1,700 will be built, but a certain number of the 1,700 will be reallocated from past authorities in reclamation projects, really?

Mr. GAASWIG. No, the 1,700 will be from new appropriations.

Senator DASCHLE. New appropriations.

Mr. GAASWIG. 300 the additional——

Senator DASCHLE. 300, OK.

Mr. GAASWIG. It's an uneven number, but its approximately that.

Senator DASCHLE. Renovation.

Mr. GAASWIG. Would be from units that were previously authorized but did not get built, for whatever reason, being reappropriated.

Senator DASCHLE. So 1,700 will be the new unit numbers.

Mr. GAASWIG. That is an approximation.

Senator DASCHLE. What is your estimate as to what percent of need that will address?

Mr. GAASWIG. That will not keep up with the attrition. It will not keep up with the annual new need. It will not address any of the old need, or the existing need.

Senator DASCHLE. You have answered that in two ways. First, you said that it won't keep up with the new need, but then you have also said that it won't even address what need there has already been.

Mr. GAASWIG. Correct. My intent is that the 1,700 is the approximate number of new families applying annually. So that it is addressing nothing that exists today.

Senator DASCHLE. And what percent, how many houses are we talking about in that case?

Mr. GAASWIG. Well, there's a documented need for over 90,000 nationally.

Senator DASCHLE. Has been documented.

Mr. GAASWIG. Right, by the BIA

Senator DASCHLE. Unmet need?

Mr. GAASWIG. That's correct.

Senator DASCHLE. So we were authorizing 1,700 houses, which won't even take care of the new need. We have a stockpile of past needs which approaches 90,000.

Mr. GAASWIG. Exactly. I agree, it's atrocious.

Mr. KEY. Could I add one thing to that question?

Senator DASCHLE. Yes.

Mr. KEY. In my area, we have 6,000 families that are on waiting lists now, so that, you can multiply that times 5, that's how many people are affected. But they are already approved for the current program. So it is not even getting new applicants, it's existing applicants. We have 6,000 families waiting right now, just in my area.

Senator DASCHLE. 6,000, yes. It really makes the whole thing almost a joke. And I don't mean to demean. I know what limitations there are, and certainly there is nothing humorous about it. "Joke" is certainly not the right term to use. But it gives you an appreciation of how incredible the pressures are and how it should come as no surprise that you have single-unit houses with multifamily dwellers. What are you going to do if you want to stay on the reservation?

Let me ask one other question relating to quality construction. Do you—and if you have addressed it already, I apologize for not having heard your answer. But can one say with any authority that the quality of construction has improved?

Mr. GAASWIG. In speaking for Red Lake, I can say unequivocally that it has.

Senator DASCHLE. It has.

Mr. GAASWIG. It has because of the gained expertise of the housing directors across the Nation as a whole, I believe. They are more in tune with what has to be done. There is less reliance on HUD. And they are getting into their own act.

Senator DASCHLE. So you attribute it more to local control and more experience at the local level?

Mr. GAASWIG. Absolutely.

Senator DASCHLE. Let me ask the second question, and then I'll thank the Chairman.

In those cases where you have negligent contractors, would you also say that there has been improvement in the ability at the local level to confront negligence and the difficulties experienced in the past with regard to faulty construction? In other words, bringing back to the worksite or to the housing site those contractors who left work undone or really were negligent in some fashion, do you have more recourse now than you had in the past, or is that still a frustration?

Mr. GAASWIG. It's definitely still a frustration, but there is less dependence on the architects. In our position, the architects tended to mandate the projects because of the lack of expertise at the Housing Director level, which was a program failing because the directors, the average life expectancy of a direct in the position is three and a half years. They did not have time to gain the expertise, therefore the program suffered.

Senator DASCHLE. Let me, if we could just, one last thing. The figure 90,000 houses was mentioned, and you said it had been documented. That is news to me. And it would be helpful if you could supply for the record, and I would be interested personally in a copy of that documentation. I think it would be very helpful.

Mr. GAASWIG. We would be happy to provide that.

Senator DASCHLE. Thank you.

[Documentation appears in appendix.]

Mr. JOURDAIN. I would like to qualify the construction ability at the local level at Red Lake. We hired qualified, experienced construction superintendents in all phases of the housing program. So we never had a problem. The only problem we've had, we didn't have enough houses to keep on going. And ours can measure up to any housing that's being developed in any part of the country right now. And I have challenged Mr. Abraham about 1982 about that. He says, "It's costing too much, we're going to have to redesign them. Better go modern there." I says, "You come on over to Red Lake, I'll show you how we are building those homes." He didn't want to come up there and see the realities.

Senator DASCHLE. Thank you for your comment.

Thank you, Mr. Chairman.

The CHAIRMAN. I thank you very much, Senator.

I would like to thank all of you for sharing your wisdom with us. I would just like to relate to you an experience we, the people in Hawaii, had many years ago.

Many years ago we looked forward to our first Federal building. We were then a Territory, with only a Post Office and Federal Court Building. And we, in Hawaii, tried to suggest what the building should look like and how it should be designed. But then the authorities in Washington said, "We have many experts here. We will draw up the plans for you." Well, the building is there. It is a beautiful building. It is in the Spanish-California motif. It is lovely. [Laughter.]

No; it's very lovely. But, as you know, Hawaii is in the tropics. This building has a heating system. [Laughter.]

Because all Federal buildings in the Continental United States have heating systems. That's the only building in Hawaii with a heating system. But, fortunately, we were able to convert that when air conditioning came along, and now we have air conditioning in there. We closed up the fireplaces, incidentally. [Laughter.]

It didn't quite fit an area where the average temperature is about 80 degrees.

So when I say we go to Indian country to get Indian solutions to Indian problems, I am very serious about it.

I thank you all very much for your help.

Our next panel consists of Ms. Hilda Garcia, representing the United South and Eastern Tribes, of Nashville, TN; Mr. Harold O. Wilson, the Executive Director of the Housing Assistance Council, of Washington, and he will be accompanied by Mr. Ed Fagan, Indian Housing Specialist, of the Council.

Ms. Garcia, welcome.

STATEMENT OF HILDA GARCIA, CHAIRPERSON, ASSOCIATION OF EASTERN INDIAN HOUSING AUTHORITIES, REPRESENTING THE UNITED SOUTH AND EASTERN TRIBES, NASHVILLE, TN

Ms. Garcia. Thank you.

Mr. Chairman, members of the Senate Select Committee on Indian Affairs, and members of the staff, my name is Hilda Garcia, and I am the Chairperson of the Association of Eastern Indian Housing Authorities, representing 16 Tribes on the Eastern Seaboard belonging to the United South and Eastern Tribes, and also the Executive Director of the St. Regis Mohawk Housing Authority in New York. I am honored to be here today to testify in support of S. 1987, the Indian Housing Act of 1987.

I would like to express our appreciation for the Indian Housing program. This program has enabled many of our people the opportunity for better living conditions, which has resulted in better health, the desire for more education, and a hope for a brighter future for the children.

The Mutual-Help Opportunity program on most reservations is the only program that enables an Indian family to purchase a new house. Because of the trust land status of reservations, most banks will not give a loan to build a house, regardless of the person's income. This program, the Mutual-Help, has been in existence since 1962 under the umbrella of the Public Housing, and trying to fit the reservations under regulations intended for cities has caused many problems for the Indian Housing Authorities and also for the HUD area offices. And so the separation of the Indian Housing programs and Public Housing would codify the HUD Indian Housing program under a separate title in the U.S. Housing Act.

Section 201, which gives the Indian Housing Authorities the maximum amount of responsibilities in the administration of their housing programs is very important. In the past, many decisions were made by people who did not understand the unique problems on the reservations. Some of the problems that need to be considered are the isolation of many reservations, the short construction seasons, the unsuitable soils that require huge septic systems, the higher cost of food, utilities, gas, transportation, lack of housing stock and alternative housing. It was a shock to me, after being out of the housing field for eleven years, to come back and see the same problems facing the reservations and the committees of Housing Associations making the same recommendations. And so I feel that the passage of this bill will be viewed as a positive step for Indian Housing.

Section 202 defines rental payments to be paid by families based upon 20 percentum of the family's monthly adjusted income seems more fair than the 30 percent that is now required under the program. The definitions for lower income and very low income is also another problem that faces the Indian Housing Authorities. As I mentioned, this is the only program available for the Indian family to buy a house. Since there is an income limit, some of the people cannot qualify for a house because they have good jobs. They either continue to live in that substandard housing or quit their jobs in order to qualify for a house, which defeats the purpose of self-determination that the Indians are encouraged to do by the government.

There is some concern also from tribes over the wording under section 205(e). The bill copies, almost word for word, the section of current HUD Public Housing Law that requires every contract for contributions with HUD to contain a provision that could lead to a loss of trust land if an Indian Housing Authority substantially defaults in its agreement with HUD. If there is an IHA default, the HUD Secretary could require the IHA to "convey title" to HUD. HUD would hold that title until all the defaults are cured, and then reconvey title to the Indian Housing Authority "or to its successor." And that is where we are having a problem.

The IHA properties are often built on trust land leased for 25 years, with an automatic renewal of 25 years. And we would recommend that the committee delete section 205(e) and replace it with a provision that gives HUD strong power to possess and manage an IHA housing project in a default situation without imperiling title to the trust land upon which the housing rests.

We agree with section 214 which provides for the recapture of budget authority available for reuse to be available only for the Indian Housing Authority that is capable of undertaking the construction of additional units.

In closing, I would like to thank you for the opportunity I had to present these facts that are so important to the Indian Housing Authorities. I also want you to know that our Housing Authority on the St. Regis Mohawk Reservation, which was established in the summer of 1985, after a year of management, has no delinquent payments and the houses and yards are well-maintained. And you are welcome to visit our reservation anytime to see the beautiful homes that have been built through the Mutual-Help Indian Housing program.

And I would also like to add that with the packet we have listed the reasons why we feel that this bill should be passed.

I thank you.

[Prepared statement of Ms. Garcia appears in appendix.]

The CHAIRMAN. Thank you very much, Ms. Garcia.

Before I call on Mr. Wilson, I would like to announce that we will be submitting to all the witnesses questions that we have prepared—some are technical—and, if you wish, we would like to have your responses to them so that we can prepare ourselves for the markup a week from Thursday. So, if you could accommodate us with your responses, we would appreciate it very much.

Sometime today the staff will be circulating these questions to the various witnesses who have appeared before us.

Mr. Wilson.

STATEMENT OF HAROLD O. WILSON, EXECUTIVE DIRECTOR, HOUSING ASSISTANCE COUNCIL, WASHINGTON, DC, ACCOMPANIED BY ED FAGAN, INDIAN HOUSING SPECIALIST, HOUSING ASSISTANCE COUNCIL

Mr. WILSON. Thank you very much, Mr. Chairman.

My name is Hal Wilson. I am the Executive Director——

The CHAIRMAN. Before we proceed——

Mr. WILSON. Yes, sir.

The CHAIRMAN. Before we proceed, I just noted the presence of a very distinguished Tribal Chairman here, the Honorable William Colgrove, representing the Hoopa Tribe.

Do you wish to testify, sir?

Why don't you join us at the table here.

Mr. Wilson, please proceed.

Mr. WILSON. Thank you again, Mr. Chairman.

We have submitted a written statement and would ask that our statement be included in the record, and with that, I would like to summarize the recommendations that we make in our comments, if I might.

The CHAIRMAN. Please proceed.

Mr. WILSON. Thank you.

The Housing Assistance Council is a housing seed money and technical assistance organization that has been primarily addressing policy issues in Indian housing since 1971. We feel that our experience in this area provides us with an excellent opportunity to offer technical advice to the committee and are very pleased to have been invited to provide our insight. We are also very pleased to offer our strong support for the major thrust of the bill that is under discussion today, and are pleased that you are moving quickly with the bill, and that a markup has been scheduled for next week.

We would like to suggest, however, that you consider the provisions in H.R. 3927 which we believe are widely supported throughout the Indian community, and ask that you, in your deliberations, would consider including them in this bill when it reaches its final stage.

In terms of the recommendations that we have made, I would like to indicate that, according to statistics provided by the Bureau of Indian Affairs, Senator Daschle, for fiscal year 1987, there are some 92,970 American Indian and Alaska Native families living on reservations or trust land that need new or substantially rehabilitated homes. Seventeen years ago, that figure was about 63,000 units. So you can see we are falling behind significantly. At the same time, the median age of 20 to 25 years, and the rate of family formations on Indian Reservations has increased markedly.

I would also like to point out, as has been indicated earlier, that together, HUD and the Bureau of Indian Affairs, with their present capacity, can only meet approximately six percent of the housing need. So, as you have heard, we are not only making no headway on the housing problem, we're falling behind. Unless the number of units provided for the Indian community is increased significantly, we will never meet the needs, and will continue to have homeless families, overcrowding, and Indian families living in horribly substandard conditions.

For these reasons, we would strongly encourage that production be increased to at least the 6,000-unit level that we had formerly, and hopefully, even to the 8,000-unit level we had 10 to 12 years ago. We would also encourage the provision of technical assistance and administrative support for the Indian Housing Authorities so that these units can move to completion without creating backlogs in the development pipeline.

We are pleased that the bill provides a separation of the Indian Housing program from the Public Housing program, and hope that this separation will provide for an Indian Housing program that is more appropriate and more potentially responsive to the unique needs found on reservations.

In addition, development work in Indian country is different from other settings. An accommodation should be made for the use of traditional materials and culturally appropriate designs on the reservation. We hope that the bill will address those needs as well.

You have heard a number of speakers mention the low-rent/fair market rents and a reduction from the 30 percent rule. In the light of the overcrowding on reservations and the extent of substandard units that are supported with Federal monies, we would encourage that at least those Native Americans living in substandard conditions supported with Federal money and those Native Americans living in extremely overcrowded conditions be allowed to pay a smaller percentage of their income for rent, to reflect the conditions that they are forced to live in.

In addition, as has been mentioned earlier, innovative ways must be found to encourage private sector business enterprises to locate on reservations. In addition, other Federal programs should be accessed as well. For example, the Farmers Home Administration has multi-family and single-family production programs, a repair program and a number of other programs that could be used very effectively on reservations. We would like to encourage this committee to look at ways to make that Federal agency responsive to Indian Housing needs, and our organization would be happy to offer some suggestions to the committee to make those resources more readily available.

H.R. 3927, also has a mutual self-help housing program similar to the Farmers Home Administration section 523 program, and we would like to see this provision become a part of the Senate bill as well. However, administrative moneys and technical support must be provided to the authorities to make that program operate in an effective manner.

Finally, Mr. Chairman, it is my understanding that the mutual help program has never been authorized as a separate program, but has, in fact, been created by HUD under administrative provisions. We encourage this committee to statutorily authorize the mutual help program in the bill and give it the kind of statutory standing and underpinning that it ought to have. As you work through the markup and move toward final consideration of the bill, consultation must occur with Tribes and Indian Housing Authorities as the bill is finalized, and that when regulations are written to implement the provisions of the legislation, that very strong coordination be undertaken with the Indian Housing Authorities and with the Indian community to make sure that the regulations promulgated reflect the best attributes of this bill and allow its provisions to be implemented in a creative and workable manner.

Thank you again, Mr. Chairman, for the opportunity to present our views before the committee.

[Prepared statement of Mr. Wilson appears in appendix.]

The **CHAIRMAN**. Thank you very much, Mr. Wilson.

I would like to now call upon Mr. Fagan, and I have been advised that you also represent the National Congress of American Indians.

Mr. **FAGAN**. Yes, Mr. Chairman. Suzan Harjo, the Executive Director of NCAI, asked me to convey her regrets. She had to travel to Denver to attend a BIA transportation hearing. She also asked me to express, NCAI's strong support for the bill, and to state that NCAI endorses the HAC testimony. I think she will provide a statement for the record to that effect.

I don't have an individual statement to present.

The **CHAIRMAN**. Thank you very much.

Chairman Colegrove.

STATEMENT OF HON. WILFRED K. COLEGROVE, CHAIRMAN, HOOPA VALLEY TRIBE OF CALIFORNIA

Mr. **COLEGROVE**. Good morning.

Mr. Chairman, we thank you and appreciate the time to testify before this committee.

Many of the things that have been talked about today we have addressed in our written testimony.

One of the things I think that we need to look at very carefully and as far as California is concerned. California is a large community. The reservations are from one end to the others, from the Mexican border to the Oregon border where we're at. This is an area comparable in distance between here and Chicago. And so when we look at the Bureau of Indian Affairs, Indian Health Service, and HUD's coordinating activities within this large area, I think we find in California that we're all somewhat lacking.

So I would like to speak today about the coordination activities between these three agencies.

The Bureau of Indian Affairs basically has responsibility for the leasing, roads, and other infrastructures of the Reservation. In California, the leasing situation with the Bureau of Indian Affairs, the roads situation, and general planning situation with the Bureau of Indian Affairs is basically not there.

We have, since early 1950's, during the determination era, much of the services of the Bureau of Indian Affairs were pulled out and basically has never been replenished in California. This, combined with Indian Health Services, similar activities, where they pulled all of the Indian hospitals and all the Indian services to California, and basically they just maintain a contracting relationship with the tribes in California, has contributed to complete confusing with the Indian Housing Authority program.

And additionally, California, because of the move of the HUD itself, moved into Phoenix area, California was somewhat left without adequate Housing Authority staffing in California.

I think that this bill itself intends, or has the capacity to bring these type of problems to the fore where we can look at these problems from one viewpoint rather than from a multi-agency and multi-statute authorization for building Indian houses.

I would also like to say that, in California, the veterans and the high-income people are virtually excluded. There is a bill in the State legislature right now regarding Indian Housing to participate in the Cal Vet program, but again, they're running into support problems and leasing problems, and basically, how is the housing to be handled in case of a forfeiture. They don't seem to be getting the cooperation from the Bureau of Indian Affairs. So it seems like that bill again is destined for failure.

Thank you very much. I appreciate the time given to speak today.

[Prepared statement of Mr. Colegrove appears in appendix.]

The CHAIRMAN. Thank you very much, Mr. Chairman.

Senator Alan Cranston, of California, as some of you are aware, is very deeply concerned about housing in Indian country, and he has participated in the drafting process of this measure before us. We have consulted him on several occasions. And to demonstrate his interest in this matter, he has sent his special assistant to observe and be with us. He is Mr. Bruce Katz, who is the staff attorney of the Housing Subcommittee of the United States Senate.

I would like to thank Senator Cranston. He is not a member of the committee, but he is always there when we need him.

We have discussed the matter of homelessness. It is a matter of prime concern in the United States Congress.

How are the homeless addressed on Indian Reservations?

Mr. COLEGROVE. Speaking from California position, the Bureau of Indian Affairs has a Home Improvement program, and again, that is very lightly funded, and a Housing program from the Housing and Urban Development, mainly low rental, and also the Mutual Help programs are basically the only way that we can address housing in Indian country, at least in California.

Mr. WILSON. Mr. Chairman, I would like to respond by referring again to the testimony of Ms. Virginia Spencer. She indicated that, when one looks at Indian Reservations and to some degree rural areas in general, a different definition of homeless should be considered. As was indicated earlier, when people are homeless on Indian Reservations they often go to live with relatives or go to live with their friends. Any count of the homeless—and any program for the homeless—really needs to consider those families who are living in overcrowded conditions, where families are doubling up. And that is not often considered a definition of homeless. But in the Indian community and in rural areas that is very definitely the case. As the Chairman indicated, unless there are some special cases on some reservations, we have only those 2,000 units that are appropriated annually, and a few BIA Housing Improvement Program units that are made available to try to solve that problem.

The CHAIRMAN. In the recent continuing resolution on appropriations, we set aside some money for homeless in the United States, and we designated a certain amount for Indian country. Has any of that reached the Indians?

Mr. FAGAN. Mr. Chairman, I am aware under the McKinney Act that there are at least three different sets of funds. HUD administers some and FEMA administers some. FEMA does not define "Indian Tribe" to be either the equivalent of a local unit of State government or what they call "Local Recipient Organizations". And States get an allocation and counties get an allocation, but tribes do not get an allocation.

What I would advocate would be an allocation, a set-aside, an Indian set-aside for Indian tribes to be divided up the way it is divided up by counties and States.

The CHAIRMAN. Well, that was the intention of the proposal we made in the Senate, and that was the work of Senator Daschle. But your contention is that it is not being carried out?

Mr. FAGAN. Of the three major programs, I believe in one of the titles of one of the programs, it is being carried out, but I know in the FEMA program it is not. We have had meetings. I have attended some of them. NCAI, the National American Indian Housing Council HAC, and Senator Daschle's representatives have met with FEMA and advised them that we think the only proper way to do this is by a set-aside, and they seem willing to listen to this, but they have funding cycles and advance preparations to do. They also have no legislative authority to do this. I think that some advocacy on the part of the Congress to assist in getting a set-aside under these programs where it does not exist would be advisable.

The CHAIRMAN. Is the Mutual Help Homeownership Opportunity program working?

Ms. GARCIA. I would like to say it does work.

The CHAIRMAN. Is it widespread throughout Indian country?

Ms. GARCIA. Yes; especially in our area we do have a lot of mutual help. As I mentioned before, that's the only way you can get a house. Otherwise—I know on paper we have all these other programs. They say that they will put housing on reservations. But when it comes down to the wire, they are refused because of the trust land.

The CHAIRMAN. How do the Davis-Bacon wage rates operate on Indian Reservations? Are they presenting any problems?

Ms. GARCIA. In our area, it has worked OK, because the Davis-Bacon wages is lower in New York, and we are losing good trades people because the wages are very low. In fact, a laborer would only get $6.06 an hour, compared to union wages which is much higher for labor. And so that's the only effect we have felt is that many of our good people are moving away and going into the cities in order to get a better rate.

The CHAIRMAN. I thank all of you, very much.

Mr. WILSON. Mr. Chairman.

The CHAIRMAN. Yes.

Mr. WILSON. May I make one final comment, if I could.

The CHAIRMAN. Please do.

Mr. WILSON. I see Mr. Katz here, and your comment about Senator Cranston reminded me of it. I had the pleasure of serving on the National Housing Task Force that came out with a series of recommendations that will be, hopefully, very seriously considered by Mr. Katz and the committee staff as they begin to draft the next major piece of housing legislation for our country. And, in the recommendations that came out of that task force, the Indian community was designated as an eligible recipient of the housing opportunity block grants that would be going out to States and to local communities. I would encourage the committee to examine this proposal and to ask the Housing Committee to make sure that funds are set aside for the block grant provision or for the HOP program, and provided directly from HUD to the Indian Housing community, and not require tribes and Indian Housing Authorities to go through State governments for those monies. When legislation is written, a portion of those monies must be set aside for the Indian community so that they can apply directly to HUD for them.

Thank you.

The CHAIRMAN. The Chair just noted that Mr. Katz has been nodding throughout the testimony. I presume that is a nod of approval?

Mr. KATZ. We will definitely take it under advisement.

Mr. FAGAN. Could I just add something, Mr. Chairman?

The CHAIRMAN. Please do.

Mr. FAGAN. Under the HOP program, which the Rouse Commission has devised, the Indian Housing Program as we know it would not be eliminated. Mutual Help and Low Rent would continue along as they are. This would be in addition to.

Thank you.

The CHAIRMAN. Thank you very much.

Our final witness is the Assistant Secretary for Policy Development and Research of the Department of Housing and Urban Development, Mr. Ken Beirne.

Mr. Beirne, Mr. Secretary, I welcome you, sir, and I am most grateful to you for sitting throughout this morning's proceedings. You had the advantage of hearing your Indian constituents and their concerns, so the floor is yours now.

STATEMENT OF KENNETH J. BEIRNE, ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, WASHINGTON, DC

Mr. BEIRNE. Thank you very much, Mr. Chairman.

My position is somewhat incorrectly stated in this schedule for the day, and I just wanted to correct that.

The CHAIRMAN. I am pleased to.

Mr. **Beirne**. I am the Assistant Secretary for Policy Development and Research for the Department of Housing and Urban Development.

The **Chairman**. The correction will be noted.

Mr. **Beirne**. Thank you.

Mr. Chairman and members of the subcommittee, I appreciate the opportunity and am honored to represent the Department of Housing and Urban Development before this committee.

Since the early 1960's, HUD has provided assistance in both the development and management of housing for Indian and Alaska Natives pursuant to the U.S. Housing Act of 1937, as amended. There are presently 173 Indian Housing Authorities managing over 61,000 units housing families in Indian and Alaska Native areas.

Each IHA administers its own housing program, which includes both homeownership and rental housing. The Mutual Help Homeownership Opportunities Program, which was codified in regulation in 1976, now constitutes about 65 percent of housing assistance in Indian areas. As authorized in the 1974 Housing and Community Development amendments, each family makes a contribution toward the cost of the dwelling in the form of land, work, cash, materials or equipment. After construction, the homebuyer occupies the house under a lease-purchase agreement and must maintain the house, pay utility and maintenance costs and make a monthly payment to the IHA consisting of an administration charge and, if the family's income permits, an equity payment. Normally, the participating family will acquire title at the end of a 25-year contract term. The IHA receives limited operating subsidy from HUD to cover audits, counseling and training costs, and limited modernization funds under the Comprehensive Improvement Assistance Program.

Approximately 35 percent of the Indian housing units are rental units. As in public housing, HUD contracts with IHAs which own and manage the properties and make the units available to low-income families. Under the tenant rental program, the contract is for 30 years and rental payments are based on 30 percent of the adjusted income. HUD provides operating subsidies under the Performance Funding System and modernization funds under CIAP.

Some IHAs also operate the Turnkey III Program which is similar to the Mutual Help program and a few IHAs operate other HUD housing programs, including the Voucher, Section 8 Existing, Section 8 New Construction, and Section 8/202 Elderly programs.

In 1981 the statement was made by many Indian leaders, as well as Washington officials, that the Indian Housing Program is modeled too closely on the urban-oriented public housing concept. Since that time the Department has issued numerous policies to address the unique Indian housing situation. Let me mention just a few of these: cost guidelines relying on single family standards; adjustments of income limits to address the lack of alternate housing in Indian areas; Indian preference in contracting, subcontracting, employment and training; conversions to the Mutual Help program; special procedures for pipeline movement and recapture/reuse; and the soon-to-be published consolidated separate Indian housing regulations which will provide a complete separate regulatory framework for the Indian housing programs.

The Department has also vigorously implemented the Congressional mandate to establish separate Indian housing offices. There is a separate Office of Indian Housing in HUD Headquarters. There are currently six Indian field offices that are providing technical assistance as well as processing funds for housing and community development programs in Indian areas. We recently issued a comprehensive handbook for field office monitoring of IHA operations which directs our field staff to target its resources to help problem IHAs. We are currently in the final stages of implementing our new computerized Indian Housing Management Information and Retrieval System, to provide a better capability to address IHA problems with hard data, as done in private sector management.

Now, let me turn to our comments on the Indian housing legislation, S. 1987, which is before the committee. This legislation proposes to incorporate all current public and Indian housing provisions of the U.S. Housing Act into a separate section for Indian housing. As we understand it, the rationale for this legislation is to address the unique issues pertaining to housing in Indian areas. We agree that there are differences between the multifamily urban public housing program and the remote single family Indian housing program. However, we wish to emphasize that separate statutory language has not been necessary to implement HUD's Indian housing program over the last 25 years.

As I have already mentioned, the Department has been able to maintain the uniqueness of the Indian housing delivery system without statutory language. We believe that separate Indian housing legislation is unnecessary.

We have specific problems, in addition, with some of the policies in the bill that deviate from the current statute.

First, the bill reduces the 30 percent rent requirement to 20 percent for the Indian housing rental program. We oppose the 20 percent rent requirement in this bill because there are other approaches for a more flexible rent in the Indian program. For families with homeownership potential, we encourage conversion to the mutual help program where the rent payment is generally between 15 percent to 30 percent of adjusted income. Also, the Department is considering a legislative proposal for the defederalization of rents. That is in the current year's budget. This proposal will permit PHAs and IHAs that elect to forego future operating subsidy to waive statutory rent rules. In addition, we do not believe that Indian families in rental units should automatically have a lower rent burden than other assisted housing families.

Second, the bill also permits families in Indian areas to utilize a travel-related deduction of $25 per family per week as an alternative to a child care deduction. For many households, this would only deepen the existing Federal subsidy. For Mutual Help Homeownership households, this new deduction would provide an additional income deduction of up to $1,300 per year, even though many of them are already paying as little as 15 percent of adjusted income for homeownership payments. In addition, the recent housing bill maintains certain deductions across the board for all assisted housing programs. We oppose any further changes at this time.

Third, the bill authorizes reuse of Indian housing development funds within the Indian housing program. As you may be aware, the majority of unworkable projects have already been removed from the pipeline. In fiscal year 1988 we project only 100 units will be recaptured and in fiscal year 1989 we estimate that there will be no recaptured units. Therefore, a permanent reuse policy is not needed and may create difficulties in accounting for the expenditure of funds.

Finally, we object to section 208 of the bill, Labor Standards, because it is not consistent with the Administration's proposed thresholds for application to Indian Housing projects.

Now, this bill was introduced before the enactment of the 1987 Housing and Community Development Amendments. As you are aware, there are a considerable number of provisions in S. 1987 that are inconsistent with the HCDA. These include ceiling rents, income limits changes, comprehensive modernization grants, and reauthorization of the Public Housing Loan fund, among others.

In closing, I appreciate the opportunity to testify before your committee regarding the Indian housing program. I believe this Administration has a record of significant improvements in this program, which has led to more and better housing for families in Indian areas. We have in place an administrative system successfully delivering housing in Indian areas without statutory change. For all of the reasons discussed in my testimony, we oppose S. 1987.

This concludes my testimony. I'd be happy to answer any questions.

[Prepared statement of Mr. Beirne appears in appendix.]

The CHAIRMAN. Mr. Secretary, if you will excuse me, we have a vote pending at this time, so I will be right back.

[Recess.]

The CHAIRMAN. We will now resume our hearing.

Mr. Secretary, I have been advised that, since 1970, the need for new or rehabilitated homes has increased from 63,000 to about 93,000. Is that correct?

Mr. BEIRNE. My understanding is that is based on Bureau of Indian Affairs Housing Survey for last year. I would say it is correct insofar as the housing survey goes, yes.

The CHAIRMAN. If that is the case, can you tell me why your agency has proposed to reduce the fiscal year 1989 appropriations for housing from 2,000 units to 1,000 units?

Mr. BEIRNE. Well, I guess there's a general reason and/or specific reason. I could point, first, to the overall situation, and that is that, within that 92,000 figure, about 53,000 of those are projected need for new units, and about 39,000 is projected need for the rehabilitation for units.

Of the 53,000, we have at the current time about 9,000 units in the pipeline. There are 2,000 units in the 1988 legislation, and we have asked for the 1,000 units for 1989. That would bring the total of units to come on line over the next couple of years to 12,000 units out of approximately 53,000 units, which is the projected need.

Now, since roughly 1980, HUD has provided about 38 percent of what was the then 1980 projected need for new housing for Indian areas. And it is really kind of a comparative situation. It isn't that the Indian housing need is being met completely. It is basically a situation where compared to the amount or the degree to which we are meeting overall need, we're actually much better meeting Indian housing need than we are in terms of dealing with the overall housing need. Now, part of that is simply the result of the fact that housing programs have never been established either by Congress or by the Administration as entitlement programs. And so we basically just decide each year how much of whatever the projected need is that is going to be met.

That is my understanding of the reason, or some of the reasons, for the request for only 1,000 units for next year. The other one, quite simply, just has to do with trying to fit in under the numbers that were set out for HUD within the budget agreements, and trying to come up with an overall number that would meet all of the agency's requirements without taking too much from anyone.

The CHAIRMAN. How long have the 9,000 units been in the pipeline?

Mr. BEIRNE. Well, it's not the same 9,000 units that was in the pipeline before. We have been adding units every year and taking units—not taking, but completing units. We are completing approximately, about 3,000 units a year. And we have been adding units at the rate of about 2,000, although last year it was over 3,000 units. And we have, at the same time, been attempting to institute policies to speed up the actual production of the units and to set up more responsible requirements for meeting development plans or to recapture the funds, that way hopefully giving everyone a better estimate of exactly what the situation is in providing housing.

The CHAIRMAN. How does the time required for HUD's units to be constructed on Indian reservations compare with HUD units outside, in the urban areas?

Mr. BEIRNE. From what I know, the Indian Housing units tend to get finished within about 2 or 3 years after the approval. It takes longer outside, actually. It takes between 3 and 5 years, depending on the program.

The CHAIRMAN. The HUD Indian Housing program has been without a director now for over a year. What is the reason for this delay?

Mr. BEIRNE. I am not actually sure what the reason for the delay is. I do know that a director has been chosen and is currently in the clearance process. And so I would expect that that person would be coming on relatively soon.

The CHAIRMAN. Can we expect to see his name be submitted publicly soon?

Mr. BEIRNE. I couldn't do that right now. I could check and see whether it's in a position to be declared publicly or not at this point.

The CHAIRMAN. What are your thoughts on the block grant approach to providing housing assistance to Indian families?

Mr. BEIRNE. I don't believe we have an agency position on that at this point.

Is that question related to the Rouse-Maxwell recommendation for a block grant?

The CHAIRMAN. Yes.

Mr. **Beirne.** We are in the process right now of discussing with all the program offices, because Policy Development and Research has the lead in developing a response with all the program offices to the Rouse-Maxwell recommendations. And probably within the next month or so the Department will have some type of organized statement on it.

My understanding is that there was an earlier recommendation for some type of block grant for Indian Housing, but that it was opposed by representatives of the Indian areas. So, until we have a new response to the Rouse-Maxwell proposal, I wouldn't be able to say.

The **Chairman.** Before proceeding, would you like to introduce your assistant for the record?

Mr. **Beirne.** Yes; I'm sorry. This is Pat Arnaudo, who is the Deputy Director for the Office of Indian Housing.

The **Chairman.** What is the current status of the Rapid Indian Housing Payment System? How does that work?

Mr. **Beirne.** It is in operation.

Ms. **Arnaudo.** The Rapid Indian Housing Payment System is a computerized process to get development payments faster from HUD Headquarters faster to the Housing Authority and to their contractor for payment. About 2 years ago, the process used to take an average of 4 to 6 months through lots and lots of layers of HUD bureaucracy. The new system is an electronic transfer process that can provide payments on average in about a 2-week period, and, if necessary in, say, a 2- to 3-day period.

The **Chairman.** So it is working?

Ms. **Arnaudo.** Yes; it's working. It is based on actual invoices, so there is quality control in that we're paying on actuals, not on estimates.

The **Chairman.** You have heard the Indians' definition or explanation of their homeless problem on reservations. It is not the same as one would find here in the District of Columbia.

How would you address that homeless problem on Indian reservations? Apparently, the present definition for urban areas can't work in Indian reservations.

Mr. **Beirne.** Well, I'm not actually sure that's true. We do have a definition of overcrowdedness for urban areas also, which is not reflected in the homeless counts that we usually use. Part of the reason for that is that, even though people may be overcrowded, it is not normally defined as a condition threatening to life and health, whereas normally homelessness does involve something pretty close to a direct threat to life and health. And for policy reasons, it is probably better to keep the two categories somewhat distinct, because you might not have quite the same urgency. There is still an urgency, and we consider overcrowded housing to be one of the major categories in what we consider a worst case needs estimate when we talk about the needs of very low income families or even just low income families that are in substandard housing. So when we try to assess the overall need for improved housing, we do include overcrowding, but when we're dealing with strictly the homeless problem, we don't usually do it that way.

For determination of housing policy, it's probably better to have the category of overcrowdedness separate. I may point out on a national level, overcrowdedness has been going down consistently. That may not be true on the Indian reservations. I don't know that we have the same types of surveys for the reservations.

The CHAIRMAN. Well, I think it would be logical to assume that, in the outside urban area, if a family unit finds itself evicted, or without a home, they would have to depend upon some private voluntary organization, church groups or such, or the Government, city, or the county, or Federal, or sleep on the streets, as we find many doing so at this time. But, apparently, from testimony, in an Indian community setting in a reservation, if someone finds himself and the family unit without residence, they are taken in by members of the extended family or friends. And so you won't find, as we do out on the streets here, Indian families huddling in some alley or some corridor, seeking shelter. And so you won't see those statistics, but yet you know that they are, in the real sense, homeless.

How can we cope with that?

Mr. BEIRNE. Well, I would say we would have to cope with it by attempting to provide housing through the variety of different housing efforts, whether Mutual Help homeownership or rental housing. I might point out that one thing we are attempting is we are going to experiment with the use of about 500 vouchers in areas where Indians do have access to a market of available housing, and we hope that will help somewhat, if only experimentally, maybe to set up a precedent for use in other areas.

The Administration would like to recommend as much use of vouchers as possible, but we realize that there are difficulties because of the unique circumstances of the Indians that render vouchers difficult or impossible in some areas. In those cases, the best thing we can do is to continue to provide the established housing programs.

The CHAIRMAN. According to testimony we have received this morning, there is a category of Indians in reservations who do not qualify as low income, and, therefore, programs are not available, and witnesses have suggested that many have either quit their jobs or done something to place themselves in a lower income category in order to qualify.

Do your regulations address this problem?

Mr. BEIRNE. Yes; they do. In general, we have set up the programs now to the point where the income limits tend to vary up to around $32,000 for the housing programs, and which enable, or should enable most families of even reasonably moderate means to participate in the programs. Also, I might point out that, under the 1987 act, the Indian Housing Authorities have been exempted from the percentage restrictions of below 50 percent of median and below 80 percent of median. In discussing the housing programs, I noticed some of the speakers earlier today were referring to 75/25 in some of the percentage requirements. I think part of the adjustments that you did not recognize in S. 1987 is that HCDA already exempts the Indian Housing Authorities from some of those restrictions.

I might point out also there are other ways to handle that. Under current law, also in the HCDA, the Indian Housing Authorities are allowed to set what are called ceiling rents, or economic rents, which would be based on more of the actual cost or the actual market cost of the housing, so that they would not be required to charge everybody 30 percent of income regardless of what their income was. And I have heard some cases of people being charged relatively sizable amounts, and obviously, if your income is $30,000 or thereabouts, and you are charged 30 percent, you are going to be charged a fairly significant amount of money for rent and the unit might not even have that kind of a market rent. But that's not just true of Indians, it's also true in some cities where the 30 percent limit is required.

Also, the Administration's proposal that will be coming forth on the defederalization of rents, which would allow Public Housing Authorities to forego some operating subsidy in order to have, and to establish a certain flexibility in their rent pattern should contribute to making the housing more affordable in those particular situations where the constraints of the current programs might otherwise keep people out.

The CHAIRMAN. Do you have any affirmative action programs in your employment policy, say in the Indian programs in your central office?

Mr. BEIRNE. In the central office.

The CHAIRMAN. Or in your central offices.

Mr. BEIRNE. Well, there is affirmative action.

The CHAIRMAN. Let's put it this way. In your Indian program, in your Indian Housing program, how many Indians are employed?

Mr. BEIRNE. I don't know whether I have that figure right here. I think we'll have to provide that for the record.

The CHAIRMAN. Can you tell me approximately what percentage of the employees are Indians?

Mr. BEIRNE. Depending on the offices. In Headquarters we have 2 Indians out of 12 employees in the Indian program.

The CHAIRMAN. This is the Indian program?

Mr. BEIRNE. Yes.

The CHAIRMAN. That is in Headquarters.

Mr. BEIRNE. That's at Headquarters. The total nationally, I think we have 33 out of 231, which is about 14 percent. That's as of FY 1987.

The CHAIRMAN. What sort of positions do they hold? Clerical?

Mr. BEIRNE. That we would have to supply for the record.

The CHAIRMAN. I would like to see that for the record.

[The requested information follows:]

The majority of positions held by Indians in HUD are professional positions. These include the Special Assistant to the Secretary for Indian and Alaska Native Programs, several of the Indian Field Office directors, and several division directors and branch chiefs in the Indian Field Offices.

The CHAIRMAN. I would like to point out that that used to be one of the problems on this committee, and we have changed that. Our staff director is, for the first time, an Indian. Incidentally, he is the great great grandson of Sitting Bull. And he is a lawyer, and he is a bank president. He was willing to take a huge pay cut to serve on the staff.

My chief legal officer is a Navajo. She is a Ph.D. in Psychology, two law degrees, and she also took a big pay cut to serve on the committee.

Mr. Mahsetky is an attorney. He is a Comanche. And he could be making much more outside, but he has decided to serve on this committee.

I am convinced that, throughout Indian country, there are hundreds upon hundreds of Indians who would like to be serving in the government, men and women with extraordinary talent and dedication. My staff is now out of 24, 18 are Indian people, and they hold the highest positions on the staff. And I think the record will show that by production, and by performance, this staff has done better than all of the predecessor staffs combined.

I would suggest that you look into this 30 out of 200. I say you can improve on that.

So with that, Mr. Secretary, and if I may, I would like to submit questions for your consideration and response, with the hope that we can receive the responses by Friday night.

Mr. BEIRNE. We'll do our best.

[Questions and the answers appear in appendix.]

The CHAIRMAN. So with that, I thank you very much, all of you, for helping us this morning. We stand adjourned.

[Whereupon, at 12:20 p.m., the committee was adjourned.]

APPENDIX

Additional Material Submitted for the Record

PREPARED STATEMENT OF HON. ALAN CRANSTON, U.S. SENATOR FROM CALIFORNIA

As Chairman of the Housing and Urban Affairs Subcommittee, I would like to thank Senator Inouye and the other members of the Select Committee on Indian Affairs for conducting this hearing to address the special housing needs of Native Americans. I particularly welcome the introduction of S. 1987, the Indian Housing Act of 1987, and pledge to work jointly with your Committee in exploring the recodification proposals contained in that legislation.

Like all low-income housing programs, Indian housing programs have not fared well under the Reagan Administration. The authorization level contained in the 1987 Housing and Community Development Act supports the construction of only 2,000 new units, down from the 5,000 new units supported in FY 1980. Yet even those cuts are not sufficient for the Administration. The President's budget proposal for Fiscal Year 1989 incredibly recommends cutting the present authorization level by more than half.

All responsible statistics demonstrate that the need for decent Indian shelter remains great. The latest Consolidated Housing Inventory issued by the Bureau of Indian Affairs states that there are over 92,000 Indian families in need of housing assistance. In typical fashion, the Administration's budget proposal for the next fiscal year is moving in the wrong direction.

The Housing Subcommittee has long given special attention to Indian housing problems as a result of the Subcommittee's mandate to provide decent and affordable housing to all Americans. We intend to devote this year to the development and introduction of major omnibus housing legislation that will set the tone and direction for national housing policy for years to come. The Indian housing programs will, therefore, be reviewed within the context of S. 1987 as well as within the context of general housing reform legislation. We look forward to working with the Select Committee on Indian Affairs on both these matters.

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Testimony

on

S.1987

By

Virginia Spencer
Executive Director
National American Indian Housing Council

Before The

Select Committee on Indian Affairs
United States Senate

April 28, 1988

TESTIMONY ON S. 1987, THE "INDIAN HOUSING ACT OF 1987"

Mr. Chairman, and members of the Select Committee on Indian Affairs, my name is Virginia Spencer and I am the Executive Director of the National American Indian Housing Council (NAIHC). I very much appreciate the opportunity to testify before you today on Senate Bill 1987, the "Indian Housing Act of 1987." Through your efforts Chairman Inouye, this proposed legislation has been introduced on behalf of many tribes and is supported by the members of the National American Indian Housing Council. The National American Indian Housing Council is a fourteen year old association of Indian housing authorities who administer the Department of Housing and Urban Development's Indian Housing Program on reservations and Indian and Alaska Native areas throughout the United States. On behalf of our membership, I thank you, Chairman Inouye, for the introduction of this important legislation and urge you to move this Bill forward to enactment.

Public housing assistance has been provided in this country since the 1930's. However, it wasn't until the 1960's that the Department of Housing and Urban Development (then known as the Federal Housing Administration) and the Department of Interior, through the Bureau of Indian Affairs, made an effort to provide housing assistance to American Indians and Alaska Natives. Since that time, approximately 60,000 homes have been constructed on trust land and about an equal number have been rehabilitated. Currently, nearly 93,000 Indian and Alaska Native families are in need of decent and safe homes. In 1970, that figure was 63,000. While the need for homes is growing, the appropriations are shrinking. Every dollar must be used most efficiently and programs must be designed and utilized with that in mind. The delivery system for new construction is in place, however, it remains for the program design to be made more relevant to meet the needs of Indian peoples living in remote, rural areas on restricted lands.

In 1961 when the Federal Housing Administration administratively determined that tribal governments could be eligible for assistance, the Department designed the Indian Program after the Public Housing Program, even though the Indian units developed were designed for homeownership with a self-help element. Rules were not promulgated until 1976 (fifteen years later), creating a new homeownership program with some of the old program elements. Thus was created an "Old Mutual Help" and a "New Mutual Help" Program for Indians. Also in the 1970's, the Department encouraged development of low-rent units and another homeownership program: Turnkey III. Only the latter two programs have their counterparts in the nation's cities under the Public Housing Program. Today, approximately sixty percent of the Indian units developed with financing from the Department of Housing and Urban Development are homeownership units. In Public Housing, less than five percent are homeownership units.

In fact, the Public Housing Program is characterized by medium to high rise apartment buildings containing rental units and operated by a relatively impersonal public housing authority staff in cities where public transportation is readily available and other amenities such as public water and sewer are standard. This is a very different environment from most Indian communities. Indian housing authority staff are generally from the community and most everyone is related to them. Twenty percent of the communities still lack basic water and sanitation facilities due to remote, rural locations. The trust nature of the land prohibits alienation and no other means of financing new housing is available to the Indian families who choose to stay on their traditional homelands. Under the homeownership programs, no operating subsidies are provided even though in recent years 95% of all assisted housing tenants were required to be very low income. While recently passed legislation corrected the problem by excluding Indians from this requirement, the HUD Indian Housing Programs have been plagued by changes in Public Housing law and regulations that only serve to complicate the delivery of homes to Indians and Alaska Natives. Attached to this testimony is a comparison of some of the differences between the Public and Indian housing programs thus providing the basis of differentiating the programs and codifying the Indian programs separately from other assisted housing.

S. 1987 is a major step in improving the delivery of housing to Indians. It basically codifies those portions of the 1937 Housing Act that apply to the Indian Housing Programs. Problems that exist in the programs that serve Indians can better be addressed with the enactment of this legislation. Solutions in the form of amendments or new regulations would also be easier to implement as they would only apply to Indian Housing and not have to be "exceptions" to Public Housing. Often, the Housing Act amendments demand additional time while interpretations are made to fit the Indian housing programs. For example, Indian housing authorities are still waiting for HUD to determine what applies to the homeownership agreements under the "debt forgiveness" language included in the 1986 Omnibus Reconciliation Act. Tribes want to know if their citizens now own their homes. Indian housing authorities also need to know so that they can plan accordingly. This issue is of no concern to public housing tenants in rental units.

Currently, the Indian Housing Programs have separate development and administrative procedures from Public Housing. However, in order to discover the origins and intent of HUD's Indian Housing Programs, one must search through forty years of statutes creating and amending the Public Housing Program. A separate title under the U. S. Housing Act codifying the laws relating to Indian Housing will improve the chances of analyzing and refining the Programs. S. 1987 proposes this separate title. It also states, for the first time, that it is the policy of the United States Government to assist American Indians and Alaska Natives in obtaining decent and safe homes.

I applaud the authors of this legislation who, also for the first time, wrote out the fifty-five pages necessary to codify the Indian Housing Program. This was the first time I had seen, in its entirety, those parts of the statute that apply only to Indian Housing. This alone has been a valuable exercise in that it allows tribes, IHAs, HUD administrators and others to examine the law only as it relates to Indian Housing. Further examination, over time, will then allow for the program to begin to be designed for Indian communities rather than after an urban, rental-oriented housing assistance program. Tribes will take more part in making the program more efficient and successful in Indian Country. This enhances the goal of self-determination which is the current policy of the Federal Government to Indians.

Recommended changes that were initiated in this Bill need to now be reviewed and amended to be consistent with recently-passed housing legislation. In addition, one recommendation, that of reducing the required rent from thirty percent to twenty percent, is the adopted position of the National American Indian Housing Council membership. This request is made due to the very low incomes in Indian Country, high unemployment rates, long distances that working-age Indians must travel to obtain and maintain a job. Paying thirty percent of one's meager income for housing leaves very little to feed and cloth one's family as well as provide transportation to work. Rolling back this requirement for all assisted housing tenants may help everyone in public housing by avoiding evictions which are leading to more and more homelessness in America. In Indian Country, "homeless" means doubling and tripling up with other family members. Additional appropriations for housing are also necessary. A minimum of 6,000 units per year of new construction could meet the existing need for new units in Indian Country in approximately ten years. At the current level of 2,000 units per year, it will take thirty years to meet today's need.

Since Federal dollars will be the major funding source for the improvement of Indian homes (state and other local governments have no jurisdiction on Indian lands), each dollar spent must be used as creatively and efficiently as possible. While new alternatives for financing must be sought, HUD should encourage new designs and building methods that provide for energy efficiency and long-term affordability. A sentence requiring HUD to do so would be an important addition to this legislation.

The National American Indian Housing Council also wants to go on record for supporting the policies and legislation which have been in the best interest of ALL Indian people residing in the United States. The Council therefore insists that in the definitions of "Indian" or "Indian Housing Authority" that all communities now being served by the HUD Indian Housing Programs continue to be included and that they always have that opportunity. Thus, I recommend that Section 202.(a)(6)(B) be amended by deleting the word "specifically" from line 21 so that there is no question that Alaska Native housing authorities will always be served by these Programs.

In recent times, the Department of Housing and Urban Development has required Indian housing authorities to undergo an annual evaluation called the "Administrative Capability Assessment." The Council recommends that a provision be added that states that the assessment is to be used as a tool for determining technical assistance and that HUD continue to provide an on-going program of technical assistance to Indian housing authorities.

S. 1987 provides permanent authorization for the reuse of recaptured Indian housing funds. Additional language needs to be provided to assure that new allocations for Indian housing are not diminished by the addition of any recaptured funds. It should be noted that nothing in this Bill adds to the cost of the Indian Programs and that no request has been made to administer the Programs separately from Public Housing.

While major housing assistance programs were developed in the 1930' and 1940's for the underserved in the rest of the nation, Indian housing needs were ignored. A variety of programs are now available to most Americans at several economic levels, but, to date, for American Indians and Alaska Natives on restricted lands, home mortgages are not available on reasonable terms, rental units cannot be found, and assistance to the lowest income has been inadequate to deal with the increasing numbers needing help. Complicating the severe need for decent housing are unique social, economic, and legal factors affecting Indian people. These include:

1. The federally protected status of Indian land which prohibits alienation, encumbrance or taxation.

2. The cultural, legal and geograhical diversity of the tribes.

3. The lack of stable economies and high incidence of poverty among Indians and Alaska Natives.

4. The multiplicity of federal agencies presently involved in the delivery of Indian housing.

5. The security risk presented by Indian land status which makes private mortgage financing and mortgage insurance programs unavailable to Indians regardless of income.

6. The refusal of Indian people to jeopardize the trust status of their lands, and the importance of the Indian land base to the survival of the tribes.

The Indian population has increased by nearly twenty-five percent since 1980 and the median age is between 20-25 years of age. Thus, there is every indication that there will be an increasing demand for housing for Indians in the future. Maintaining the existing delivery system and programs is essential. Codification of this delivery system, the HUD Indian Housing Program, under a separate title in the Housing Act will help assure this program's future as well as better serving the the needs of Indians and Alaska Natives.

Mr. Chairman, and members of the Select Committee on Indian Affairs, the membership of the National American Indian Housing Council sincerely thanks you for your efforts to improve the delivery of decent homes to Indians and urges you to act expeditiously on this proposed legislation. A strong commitment from you, and all that are concerned with providing housing assistance to Indian and Alaska Native communities, is needed more than ever. Without it, this nation's first peoples will be homeless because there is no other safety net.

Table I
CHARACTERISTICS OF INDIAN AND PUBLIC HOUSING:

	Indian Housing	Public Housing
Housing Type	Single family detached scattered site.	Multifamily, high rise elevator structures
Environment	Remote rural areas; scattered sites; most units need infrastructure; restricted title (i.e., trust lands).	Majority of units in projects in urban or town settings; Most projects do not need infrastructure.
Program Emphasis	60% Homeowner, 40% rental	Over 98% rental
Market	No other alternative assisted or private sector housing available; vacancy rates almost non-existent.	Various other assisted or private sector housing available.
Tenant Issues	No active tenant groups	Active tenant groups
Housing Authority Size	Majority of IHAs have under 500 units with fewer than than 5 staff. Most staff from local area (more effective, less training, low pay).	Various size PHAs-majority of PHAs have over 2500 units. Staff generally profesionally trained and well paid.
Major Problems	-Management capacity, -Rent collections -Staff turnover -Coordination with Bureau of Indian Affairs (BIA) & Indian Health Service (IHS) -Funding for infrastructure	-Condition of units/ -Maintenance/ rehabilitation -Tenant advocacy

STATUTORY, REGULATORY AND POLICY DIFFERENCES BETWEEN PUBLIC AND INDIAN HOUSING

Program Area	Indian Housing Unique	Indian Housing Same as Public Housing
Development	Separate regulations, handbook & some forms	
	Indian Preference statutory requirements rather than Title IV and VIII Equal Opportunity Requirements.	
	Separate cost containment policies.	
	Separate fund allocation approach/methodology.	
	Separate requirements & procedures for Interagency coordination (BIA, IHS & HUD).	
	Infrastructure - i.e., BIA surveys, in some cases, have never been made; no air photos available, have to start surveys from scratch; roads may be have to built, both off-site and on-site water and sanitary sewage disposal must be developed or expanded.	
	Logistics of getting materials to site can be extraordinary - e.g., in Alaska, if all materials aren't ordered and on barge from Seattle by July 4th, you may have to wait to build until following summer or double cost of construction to fly in missing parts.	

STATUTORY, REGULATORY AND POLICY DIFFERENCES BETWEEN PUBLIC AND INDIAN HOUSING

(Continued)

Program Area	Indian Housing Unique	Indian Housing Same as Public Housing
	Tribe may dictate where homesites are - e.g., clan lands	
	IHAs may be managing and developing units up to 750 miles apart; planned unit "clusters" or development sites often were a mistake in early site planning on some reservations; these became ghettos; scattered sites are preferred for traditional occupance.	
Occupancy	Mutual Help Program is authorized separately in the statute; it has separate regulations & handbook.	IH & PH have reexamination & income deduction policies; PH & IH have the same rental & Turnkey III family rent & utilities policies.
	Lease and grievance policies different from PH and IH.	
	Cultural and political differences abound; before PH program people did not pay rent; IHA policies and procedures must mesh with tribal policies.	
	Performance Funding System does not work well for small IHAs; many IHAs have less than 100 units with 1 - 2 staff. Same expense criteria used but no factor for additional costs for servicing in remote locations, scattered sites.	

STATUTORY, REGULATORY AND POLICY DIFFERENCES BETWEEN PUBLIC AND INDIAN HOUSING

(continued)

Program Area	Indian Housing Unique	Indian Housing Same as Public Housing
Financial Management	Unique operating subsidy regulations for Mutual Help; Unique operating subsidy policy for Alaska IHAs.	PFS statutory & regulatory requirements apply to only IH rental projects but do not provide accurate subsidy levels and should be changed. Financial management policies are the same for PH & IH. Cash management and investment policies are same for IH and PH.
CIAP		Same policies for IH and PH but program is too complex for IH. CIAP is oriented to apartment building renovation.

TESTIMONY OF
NEWTON CUMMINGS
CHAIRMAN OF THE OGLALA SIOUX HOUSING AUTHORITY

ON BEHALF OF
THE OGLALA SIOUX HOUSING AUTHORITY

ON SENATE BILL 1987
THE INDIAN HOUSING ACT OF 1987

BEFORE THE UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. Chairman and Members of the Committee:

I am Newton Cummings, Chairman of the Board of Commissioners for the Oglala Sioux Housing Authority. Appearing with me is Charlotte Black Elk, Commissioner for Wounded Knee District.

As Chairman of the Board of Commissioners for more than five years, I am pleased to testify in support of S. 1987, the Indian Housing Act of 1987. This testimony is submitted on behalf of the Oglala Sioux Housing Authority.

BACKGROUND OF THE OGLALA SIOUX HOUSING AUTHORITY

The Oglala Sioux Housing Authority is the first Indian Housing Authority in the United States. Established by the Tribal Council in 1961, Project SD 1-1 was commenced and built on the Pine Ridge Indian Reservation for some of our low income residents. Since this first house was occupied, we have built projects under the low rent programs of HUD, the Old Mutual Help Program, and the New Mutual Help Program. We now have more than 1200 units under management, making the Oglala Sioux Housing Authority one of the largest Housing Authorities in Indian Country. With our background of more than 25 years of planning, constructing, repairing, modernizing, and managing these units under the various HUD programs, we have a great deal of knowledge of the various programatical changes, and problems in the Indian Housing

Program.

The Housing Authority currently provides the primary shelter for approximately 8,000 residents, and constitutes nearly 40% of the total available Housing on the Reservation. The need for quality Housing is still in short supply, and we currently have a waiting list of well over 1,200 applicants waiting for a vacant house. We have as many as 17 people residing in a 4 bedroom house due to lack of adequate housing.

With this shortage of available housing, we find that more and more of our children are being forced off the reservation to find a suitable home. When it comes time to start their own families, too many of our young couples cannot find a home and must move off the Reservation. This drain of our young people is having very serious long term consequences.

Tribal Culture is dependent upon the young people maintaining close contact with their elders, their religion, and their traditions. As the young people leave the reservation and find housing off the reservation, the future of the Tribe itself, and tribal culture is threatened. The children of these new families will not have the contact with their own traditions which is essential to long term tribal survival and sovereignty. Most acutely lost is their tribal language, which is not taught in off reservation schools, and is critical to long term cultural survival.

COMMENTS ON S. 1987

A. Current Housing Programs are designed for Urban Areas.

Senate Bill 1987 would codify and separate the Indian Housing Program from HUD's urban housing programs. This is a long overdue necessary change in HUD's program, and is an absolutely vital and essential for meeting the purposes of the Department of Housing and Urban Development, and the needs of Reservations for adequate Housing.

The "regular" HUD program, is designed with the city as a backdrop. Many of the HUD regulations are written with the unstated assumption that the HUD participants are living in an Urban area. The regulations are designed with these additional urban resources and capabilities in mind. Many of these regulations are written to address problems in urban areas which are not problems in rural areas. When this occurs, the urban area solution itself becomes a problem in the rural area of the Reservation.

For example, the HUD program currently sets a goal of 95% population of "very low income" families, with 5% remaining for low income families, or those not in the very low income category. Another HUD regulation (24 CFR 960.210), however, forbids the eviction of a tenant from subsidized housing unless alternative housing at a reasonable rate can be found.

This regulation makes sense in an urban setting. If a family in an urban setting becomes employed, and income level increases, it is logical to require them to go to the private market. In an urban environment, there is a private housing market. But in a rural area such as are found on most Indian Reservations, there is little or no private housing market. The Housing Authority cannot meet its statutory requirements of 95% very low income, and 5% low income, nor are they allowed to evict tenants based solely on their income.

On the Pine Ridge Indian Reservation, of the non Housing Authority homes, approximately 25% of the remaining dwelling units are owned by Government Programs with limited access. These homes are owned by the Bureau of Indian Affairs for its employees, by the Indian Health Service for its employees, and by Schools and School Systems for their employees. Of the total dwelling units on the reservation, there are less than 100 privately owned dwellings which are available for rental and which are suitable for family living.

These types of regulatory conflicts abound throughout the HUD program. These conflicts increase and will continue to increase as the urban area housing situation develops in one way, and the rural areas continue to need different solutions to different problems.

By separating and codifying the Indian Housing Program from the "regular" program, the solutions to problems will be geared to solution of problems as they actually exist on the reservation and not geared to solutions of problems that do not exist, but the solution for the urban area becomes the problem on the reservation.

B. Senate Bill 1987 adapts HUD Indian Rental Formulas to Indian Economic Realities.

The Oglala Sioux Housing Authority strongly supports the reduction of the percentage of family income to be paid for subsidized housing rent from 30% to 20%. We also strongly support the inclusion of the "excessive travel costs" provision which applies to many of our low income families actual living expense.

For many years, the Oglala Sioux Housing Authority has tried to obtain a change in the rent calculation method which takes into account the great distances people must travel to obtain fundamental and basic necessities of life. For many of our residents, the nearest store to purchase shoes, pants, and other clothing items is 60 to 100 miles away. This very high, and very real travel costs must be included to fairly determine what a family's actual cost of day to day living really is. In the urban areas however, a trip of 60 to 100 miles can take you past dozens of stores selling clothing, food, and other necessities.

Again, the current calculation methods are based on assumptions of urban living and not on the realities of Reservation life. In an urban area, for a dollar or two, a shopper can get on the Mass Transit System, and go to clothing stores, food stores, hospitals and medical facilities, and other basics. On the Reservation however, most families do not own a car, and cars must be "hired" at approximately $100 for a round trip to Rapid City to shop for clothing, food, and other necessities.

These very real costs must be included in the rental calculation to fairly reflect the actual cost of living. Transportation in the urban setting is an incidental expense. On the Reservation however, transportation expenses become a large expense of the family and S. 1987 properly includes these costs in the rent calculation method.

The Pine Ridge Reservation has been, and remains, the lowest per capita area in the United States of America. The failure to recognize the real expenses of life on the Reservation, creates a further drain on the limited economic resources. The economic realities and expenses of living in the urban areas do not match the reality and expense of living in the rural setting of the Reservation. By separating Indian Housing from "regular" public housing, the HUD program can better meet the realities of the Reservation residents.

C. Senate Bill 1987 Ensures That Recaptured HUD Funds Remain In Indian Housing.

Senate Bill 1987 contains an important provision which requires that HUD retargets budgetary authority for construction of Indian Housing to Indian Housing Programs in the event that HUD recaptures funds from development of Indian Housing. This change, which should not be necessary at all, is a long needed procedure.

In the past, when HUD recaptured funds allocated to develop Indian Housing, HUD has taken this money and reallocated the funds to non-Indian Housing Authority for their further development, or returned the money to the Treasury. What is most frustrating about this situation is that many times the reason the funds were recaptured is not the ability of the IHA to develop a project but to HUD requirements which do not match the rural development realities, and which require exceptions, waivers, and approvals of the Regional or even Central Office.

It does not seem that it should be necessary to statutorily require that funds allocated to Indian Housing Development should be spent for that purpose, but the actual practice of HUD in the recent past shows that it is necessary. Funds for Indian Housing Development should be spent on Indian Housing and not on Non-Indian Housing.

CONCLUSION

In conclusion, Senate Bill 1987 is a very good start to making the HUD program a better program. It will be a good start to make the HUD programs meet the realities of Reservation life, and to improve the needs of Reservation Housing. It will be a good thing for the people of the Pine Ridge Indian Reservation, and on behalf of the Oglala Sioux Housing Authority, our tenants, and our future, I urge its passage.

PREPARED STATEMENT OF FRED THOMPSON, DIRECTOR, NAVAJO HOUSING AUTHORITY, WINDOW ROCK, AZ

Chairman Inouye, the Navajo Nation Housing Authority (NHA) commends the intitiative undertaken by you, Senator Evans, Senator McCain, Senator Burdick, Senator Daschle and Senator DeConcini in introducing S. 1987, the Indian Housing Act of 1987, to address the housing needs unique to Indian people.

The Indian Housing Act of 1987 takes a positive step toward granting Indian housing authorities the responsibility they need to administer their housing programs in a proper fashion while also improving the quality of housing for Indian people. Hopefully, the Indian Housing amendments will allow the Navajo Housing Authority to establish more equitable rents for its tenants.

With the largest Indian population in the country to serve, the NHA has sought to maximize it participation in the Department of Housing and Urban Development's (HUD) Indian housing programs. HUD's two major housing programs widely used on the Navajo Reservation are the Mutual Help/Home Ownership Opportunity Program and the Low-Income Public Housing Rental Program. NHA presently manages 1,546 Mutual Help/Homeownership units and 2,726 public rental units. We also have 444 new Homeownership units and 33 new rental units that are ready for occupation. Given this experience, NHA would like to ask you, Mr. Chairman, and the Senate Select Committee on Indian Affairs to give serious and thoughtful consideration to the following comments and recommendations submitted by the NHA relating to S. 1987.

The Navajo Nation continues to support the concept of establishing separate rules and regulations for Indian housing authorities. Under current law, Indian housing authorities must abide by the same rules and regulations as public housing authorities even though the economies and demographics of the service areas are entirely different. As a result, the Navajo Nation faces a critical shortage of affordable, safe and sanitary housing. The Navajo Housing Authority is confident that this shortage could be alleviated by implementing rules and regulations that are better suited to the unique housing situations on Indian Reservations.

The United States Housing Act of 1937 provides the basis for Indian housing programs. The legislative history of this act reflects congressional concern during the Great Depression for the large numbers of homeless Americans and for others whose homes were unsafe and unsanitary. The goal of the 1937 legislation was to provide federal funding for new home construction and existing home improvements for low-income families. Although Indian Country was not specifically excluded from the United States Housing Act of 1937, there is no evidence in the law's legislative history to suggest that Congress ever considered Indian people and their housing problems when it drafted the law.

It was not until the 1960s, after sufficient numbers of Indian people protested the deplorable housing conditions on their Reservations, that the Department of the Interior examined the applicability of some of HUD's urban programs in Indian Country and urged HUD to initiate pilot projects. In 1961, Congress appropriated the first funds specifically earmarked for Indian housing, and in 1968, Section 206 of the Housing and Urban Development Act contained the Department's first official reference to Indian Country, mentioning HUD's obligation to serve low-income families in Indian Country.

The primary source of funding for housing in Indian Country since the 1960s has been the Department of Housing and Urban Development. However, in complying with its congressional mandate, HUD did not completely redesign its predominately urban housing program when it made the transition into Indian Country.

NHA fully supports the separation of the Indian housing program from HUD's other public housing programs contained in the legislation as Title II of the United States Housing Act of 1937. However, we strongly recommend that S. 1987 go one step further by establishing the position of Assistant Secretary for Indian Housing within the Department of Housing and Urban Development. All too often, Indian people have found themselves lost in the competitive shuffle for federal dollars that tends to overshadow the unique trust relationship between the United States government and Indian tribes. The Assistant Secretary position would ensure that Indian housing needs are accorded the priority that the federal-tribal relationship requires by providing direct access for Indian tribes, through their Indian housing authority, to the hierarchy of the HUD administrative structure.

The Navajo Nation's past experience with the public housing program should provide ample justification for creating a separate program to meet the needs of Indians. The Navajo Nation requires 30,000 units of public housing, out of the 60,000 units needed in Indian Country, to adequately meet the needs of our tribal members. However, for two consecutive fiscal years (1985 and 1986), Navajo did not receive one unit of HUD housing, even though HUD justified its budget based on Navajo needs. In FY 1987, Navajo was finally allocated funding for 626 new units--253 housing units were allocated through normal procedures and an additional 373 units came from recaptured funds authorized only for FY 1987. Mr. Chairman, it is not right that Navajo first had to wait two years for new housing and then had more than half of its units alloted through the recapture and reuse provision. Clearly, changes need to made in the way Indian housing funds are distributed.

The reason the Navajo Nation did not receive housing funds for two years is simple and when carefully examined should be an impetus for major changes in the Indian housing program. HUD allocates Indian housing based on six criteria that are part of an overall management assessment--the Administrative Capability Assessment (ACA). Tenants Accounts Receivable (TAR), which account for 16 percent of the ACA, are the amount of rental delinquencies that tenants owe the Indian Housing Authorities. The Navajo Nation's rental delinquencies were over the limit that HUD and the tribe had negotiated and therefore, Navajo received a very poor score on 16 percent of the assessment, lowering its overall management performance. The low score has little to do with the Navajo Housing Authority's ability to effectively manage programs, as we were judged to be more than capable in meeting the other five criteria of the ACA. Thus, the delinquent rents of tribal members were solely responsible for stopping housing funds.

We believe that the delinquent rents of tribal members are largely attributable to the statutory requirement that tenants of IHAs pay 30 percent of their Adjusted Gross Income (AGI) to rent. Consequently, as a tenant's income increases so does his or her rent. The purpose of the AGI provision is logical in other public housing contexts. The AGI provision works to increase rent in proportion to salary, even though the quality of housing stays the same. In a market-oriented economy, where there are alternatives to public housing, the AGI provisions should give the tenant an incentive to search for alternative housing, preferably in a private market.

There is one small problem with this policy as it relates to Indians in general and the country's largest tribe, the Navajo Nation, in particular. There is no private housing on the Navajo Reservation. On a reservation, the trust status of land has prohibited tribal members from using land as collateral and kept

Native Americans from participating in an important aspect of the American dream--home ownership. Thus, if tribal members want private housing, they have to move off the Reservation. The alternative is to remain on the Reservation and face the prospect that, as their salary increases, so does their rent even though the quality and condition of their dwelling remains the same or even decreases with time. Those Navajos who do not want to move from their family and friends on the Reservation have become discouraged by having to pay more and more for the same housing and have thus stopped paying their rent. As a result, the Navajo Housing Authority has been graded poorly in its management capability. This policy is irrational, unconstructive and unfair.

We also strongly support the idea that funds for Indian housing units that are recaptured from one project should be reused for another project rather than being returned to the Treasury. This provision helped us receive approximately 700 units in FY 1987. We believe that these changes would increase the efficacy of the program and better meet the needs of our people. The loss of federal funds appropriated for Navajo housing in any fiscal year has a much greater and significant impact in Navajo Indian country than for other more urban public housing authorities because the Navajo Housing Authority is the only source of housing for Navajo communities. We also strongly believe that funds that are recaptured should be available for reuse by Indian housing authorities for an indefinite amount of time, and not just one year.

The Navajo Housing Authority feels it is time to amend the United States Housing Act of 1937 so that Indian housing authorities can better provide safe and adequate housing on reservations. However, in addition to the amendments to the United States Housing Act of 1937 proposed in S. 1987, the Navajo Nation recommends that the following changes be included:

1) a position should be created for an Assistant Secretary in the Department of Housing and Urban Development who would be responsible for Indian housing issues;

2) admission policies established by Indian housing authorities should be designed to attain a tenant body composed of families with a broad range of incomes and rent-paying abilities representative of the income levels of families in the area. Thus, Section 103 of PL 100-242, which exempts Indian housing authorities from the 95%-5% requirement that mandates that tenants of IHAs be "very poor," should be included in S. 1987 to provide consistency. This will give Indian housing authorities much more flexibility in administering their home ownership and rental programs and remedying the acute housing shortage that presently exists within Indian country. Indian housing authorities are predominately rural housing programs and on most Indian reservations are the only source of housing. The private housing sector is practically nonexistant. The broad range of incomes approach allows each Indian housing authority to

address the specific housing needs of the Indian population in its own service area;

3) NHA recommends that Section 202(a)(2) of S. 1987, which changes the current standard rent payment from 30 percent of adjusted income to 20 percent of adjusted income with a rent ceiling established by the Indian housing authority, be amended to increase the rental percentage to 25 percent of adjusted income (ultimately, IHAs should be granted the authority to set rents as they choose). With the increase of deductions proposed by NHA in the comments below, the percentage of adjusted income should be increased to allow Indian housing authorities to cover their debt service and operating expenses for the rental units. In addition, NHA would recommend that the rent ceiling be based on fair market rental, which would more accurately reflect the cost and availability of rental dwelling units for a specific area served by the Indian housing authority. The purpose of the rent ceiling is to assist the Indian housing authority in receiving sufficient rental revenues to defray its debt service and operational costs associated with the rental units, thereby minimizing the amount of HUD subsidy needed to meet the Indian housing authority's rental operational expenses;

4) S. 1987 appropriately excludes child care expenses and excessive travel expenses for unemployment or education travel from the adjusted income levels used to set rental

rates. However, NHA recommends that deductions authorized in HUD's 1980 regulations should be reinstated to more accurately address the economic characteristics of the Navajo people. We also believe programs such as Aid to Families and Dependent Children should not be considered income.

Essentially, the deductions allowed would be:

--$500 for each household member under 18 years of age or handicapped or a full-time student;

--5% of the gross income of primary wage earners;

--$500 for secondary wage earner who is the spouse of head of household;

--expenses for child care and care of sick or incapacitated members necessary for employment;

--unusual occupational expenses.

Travel and child care expenses are among the highest costs to Navajo tenants. Navajos must travel long distances for employment since available housing is generally not in the area of their workplace. Shopping for household needs also requires extensive travel. By increasing the number of deductions for expenses like travel and child care, housing will then be available to a broader range of Navajo families than is currently served;

5) An Indian housing authority should not be prohibited from complying with tribal preference and contracting requirements. Indian nations possess inherent sovereignty to regulate matters within their territories, which extends to economic regulations designed to protect the health and welfare of the nation's members. Tribal laws that mandate preference in employment and contracting to tribal members are a proper exercise of self-government designed to promote the employment status of tribal members. Unemployment that exists within Indian reservations far exceeds the unemployment rate in surrounding non-Indian communities. To alleviate this problem, Indian tribes have adopted tribally-affiliated preference in employment laws. Congressional suppport in this area is needed.

Over 60,000 units of housing are required to meet the needs of Indian people--over 20,000 are needed by the Navajo Nation alone. Mr. Chairman, too many Navajos live in substandard housing without such necessities as running water and electricity. For these reasons, we look forward to working with you on S. 1987 in order to better serve those who rely on public housing on Indian reservations.

	CURRENT WAITING LIST			UNITS UNDER MANAGEMENT			REASON FOR MOVE-OUTS AFTER AUGUST 01, 1982							
PROJECT OFFICE	Public Rental	New Mutual Help	Total	Public Rental	Homeownership/ Mutual Help	Total	Moved Out Of Area	Obtained Other Dwelling	Transferred To Mutual Help	Transferred To Another Project	Eviction	Increase In Rental Payment	No or Other Reason(s)	Total
Chinle	550	536	1086	456	130	586	11	10	0	3	4	20	11	59
Crownpoint	150	385	535	190	215	405	22	14	11	7	2	0	0	56
Ft. Defiance	350	176	526	367	154	521	18	30	1	1	2	41	37	130
Kayenta	165	42	207	124	152	276	22	20	3	2	8	51	12	118
Navajo	180	195	375	326	65	391	22	9	4	3	8	40	55	141
Ojo Amarillo	148	182	330	424	124	548	49	5	9	0	1	56	65	185
Shiprock	663	147	810	336	142	478	34	29	6	2	5	110	3	189
Tohatchi	159	351	510	79	175	254	10	11	3	0	4	10	8	46
Ramah Sub Off.	25	21	46	109	15	124	6	5	0	0	1	0	85	97
Tuba City	350	429	779	225	226	451	43	10	17	33	37	30	0	170
Dilcon	140	461	601	90	148	238	0	4	3	2	3	3	5	20
Grand Total	2880	2925	5805	2726	1546	4272	237	147	57	53	75	361	281	1211

EXHIBIT A

EXHIBIT B

FORM 5-6406
10/79

CONSOLIDATED HOUSING INVENTORY

FISCAL YEAR 19 87

TRIBE/AGENCY/AREA	TOTAL NUMBER EXISTING HOUSING UNITS	HOUSING UNITS IN STANDARD CONDITION	HOUSING UNITS IN SUBSTANDARD CONDITION	HOUSING UNITS NEEDING RENOVATION	HOUSING UNITS NEEDING REPLACEMENT	FAMILIES NEEDING HOUSING	TOTAL NEW HOUSING UNITS REQUIRED
Shiprock	3243	1814	1429	1217	212	1351	1563
Western Agency	4645	1747	2898	1950	948	3708	4656
Eastern Agency	3687	495	3192	1264	1928	4231	6159
Chinle	2995	868	2127	965	1162	3680	4842
Fort Defiance	4139	1396	2743	1897	846	2366	3212
TOTAL	18,709 A	6,320 B	12,389 C	7,293 D	5,096 E	15,336 F	20,432 G

Follow BIA Manual Instructions

A = B + C

C = D + E

G = E + F

HOPI TRIBAL HOUSING AUTHORITY

TESTIMONY

OF

JOSEPH LABAN, EXECUTIVE DIRECTOR
THE HOPI TRIBAL HOUSING AUTHORITY

ON

S.1987

TO AMEND THE UNITED STATES HOUSING ACT OF 1937 TO ESTABLISH A SEPARATE PROGRAM TO PROVIDE HOUSING ASSISTANCE FOR INDIANS AND ALASKA NATIVES

BEFORE THE

UNITED STATES SENATE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

APRIL 28, 1988

P.O. BOX 698 SECOND MESA ARIZONA 86043 (602) 737-2556

TESTIMONY

S.1987

INDIAN HOUSING ACT OF 1987

Honorable Chairman Daniel Inouye, Members of the Select Committee on Indian Affairs.

Thank you for your support, concern and interest in providing adequate housing for our Indian People.

My name is Joseph Laban, Executive Director of the Hopi Tribal Housing Authority. I am pleased to appear before you today to provide some information to you on our housing situation on Hopi which will help justify our support and recommendation on the passage of this historic legislation, "Indian Housing Act of 1987," Senate Bill 1987.

Some of you already know the location of our reservation, Chairman Inouye who was there under another agenda recently, and Mr. McCain and Mr. DeConcini who represent Arizona.

The Hopi Indian Reservation is located at the Northeastern corner of Arizona, consisting of 1.9 million acres and is situated on the high desert plain of the state. The area is flat with minimum resources immediately available for economic development.

The Hopi has inhabited this area since time immemorable with Oraibi being internationally known as the only continously inhabited village in the United States. The village of Walpi is not too far behind.

Our homes are located on Mesa tops, and are stone/masonary structures which has survived many many years. Because these homes were constructed many years ago, they do not meet the present day standards of safe, decent and sanitary housing.

NEW LEGISLATION

This legislation, S.1987 "Indian Housing Act of 1987," is a piece of legislation which we can work with, therefore can support. The reason that we can readily support this legislation is because it is addressing the NEED, it is addressing one of the biggest hurdles that we as Indian Housing Authorities face while being but a very small part of Public Housing program, under Title I of the Housing Act of 1937. This hurdle is there because the rules, regulations promulgated for Public Housing Programs, become automatically applicable to Indian Housing, inconsiderate of revelency. This bill, S.1987, is attempting to set up Indian Housing as a separate title (Title II Assisted Housing for Indians and Alaska Natives) under this Housing Act of 1937 and as such would separate regulations more applicable to Indian country.

ELIGIBILITY

There are two basic programs that have been implemented in Indian Country and they are (1) Mutual Help Homeownership program and (2) Low Income Rental.

The focus of the eligibility requirements of both of these programs are the low income families. On the Hopi Indian Reservation, these elibibility requirements are prohibitive on the most part because we do not have any outside financing available. Due to the trust status of our land, the complicated local control on our land base, it is next to impossible to obtain any outside, commercial financing for development. Therefore any eligibility requirements based on income is prohibitive. The general eligibility based on income should be stated in terms such as;

Low Income Rental Projects:

"Section 202(a)(1) Dwelling units assisted under this title shall be rented to only those Indian families who meet the lower income requirements at the time of their initial occupancy of such units or such other income criteria deemed approporiate by the local Indian Housing Authority and local government.

Mutual Help Homeownership Program

There should be no maximum income limit on this project because of the nature of this project and the financing unavailability on Trust lands.

If a family's income is high enough to create a house payment in excess of the mimimum house payment (Administrative Charge) established by the local Indian Housing Authority, this excess is applied directly to the equity of the family's house balance, thus reducing the term of the lease.

This homeownership opportunity program under Mutual Help projects is one of the best programs that has been initiated in Indian Country, providing housing and providing pride in ownership. The problem we have with or in conjunction with this program is its restrictions based on income considerations, restrictions to low and very low income criteria. On our reservation, we have very limited economic development as well as sporadic employment availability. We have families who sometimes have a total family income which exeeds the low and lower income limits and at other times this income falls below these limits, yet they need housing, and pride of ownership is one of the social norms that help one to have self respect, self worth which assist the individual to exert more effort to improve or maintain what he has. When one cannot obtain or is disqualified to obtain certain necessary provisions for his/her family, this deteriorates the self image, self respect of the individual which leads to other problems. "...This program shall be designed to meet the homeownership needs of Indians on Indian Reservations and other Indian places, including Indians whose income exceed the levels established for lower income families," would be the more appropriate language addressing the eligibility policies.

ADJUSTED INCOME - PARAGRAPH (5)(A)

The formula for establishing the Adjusted Income of a family is totally unfair, considers income that the family does not have available for spending. The deduction for each family member must be the same as the Internal Revenue Service, which is $1,900 per family member. This is the mimimum that can be provided. Using the lower figure of $480 as deduction considers a higher percentage of income as available for other necessities, which is just not there. Using the Internal Revenue rate is not only fair, it is consistent with other federal agencies. The family head and spouse must be included in this consideration as their needs are also included in the overall family needs.

Paragraph (5)(D)(ii) eliminate the word "excessive," and leave the paragraph to read "travel expenses, not to exceed twenty-five dollars per family per week for employment or education related travel."

THIRTY PERCENT (30%) RENT RULE

It is very encouraging to learn that it is the recommendation in this proposed bill, S.1987, that "(2) A family shall pay as rent for a dwelling unit assisted under this title ... the highest of the following amounts rounded to the nearest dollar: (A) 20 per centum of the family's adjusted income;" It is not good medicine to include an OR statement, "(B) 10 per centum of the family's monthly income; or..." This paragraph has to be eliminated. Using double standards, duel considerations would only create more havoc, more mistrust among our Indian People, a mistrust that is based on the government trying to get as much as they can from the Indian People. Only one calculation base is sufficient.

For those families who are on welfare assistance, paragraph "C" of this same section is appropriate.

With the elimination of this option of 10% of the family's total monthly income, with the adjustment of deductions for each family member to the same rate as the Internal Revenue Service ($1,900 per family member, including Head of Household and Spouse) this calculation of house payments required of each family occupying the rental units will be more equitable. Those families occupying and participating in the Mutual Help Homeownership Program, this same formula will be applicable except the base percentage. In the Mutual Help Home Ownership Program, the local Indian Housing Authority has the option to establish the percentage between 15-30%. This, I believe would be changed consistent with this new legislation to 15-20%.

This is more equitable and more tolerable by the Indian families nationwide.

PROPERTY STANDARDS

With the evolution of these new regulations, it is our sincere recommendation to establish this program to address the uniqueness of each Indian Nation's housing construction, architecture, building materials, etc. Our Tribe, for example has been trying hard for many years to retain, to utilize our native architecture, native construction materials/methods, to retain our native aesthetics, but mostly to no avail due to federal regulations being nonpermissive, no provision for this type of initiative by the Indian People. This legislation should provide that the standards provide for sufficient flexability to permit use of different designs and materials.

ADEQUATE FUNDING OF OTHER FEDERAL AGENCIES

The present Indian Housing Program does not only involve the local Indian Housing Authority and its local governing agency, it involves other agencies, other federal agencies such as the Bureau of Indian Affairs Programs, Realty Branch responsible for Leases and Title registration, and the Roads Branch responsible for the offsite access roads; Indian Health Service, Office of

Environmental Health who is responsible to oversee the adequacy of water and sewer systems. In the recent past few years (seven), these branches of the federal government as well as the Indian Housing Programs were zeroed out by the administration's budgeters. Fortunately, through the efforts of Congress, we, the Indian Housing Program has been kept alive through appropriations of housing units each year. Unfortunately, however, ever since these other federal agencies have either been not receiving any funds for our needs (Indian Health Service) or have been receiving inadequate funding (Bureau of Indian Affiars, Branch of Roads) thus resulting in inferior services at the reservation level. We sincerely request that you do whatever is needed to obtain the necessary funding for these agencies so that they will assist us in carrying out, achieving our mission of providing safe, decent and sanitary housing for our people. Without adequate funding, these agencies sometimes prove themselves as a hinderance, delaying the progress of the projects by not committing themselves to carrying out their portions of responsibilities.

NEED

We have explained the location and quality of our reservation.

We have an approximate total membership of Hopi at 10,000 individuals (9,874) based on the Hopi Tribe Overall Economic Development Program, 1986-1988 Annual Report.

The Hopi Tribe through the Home Improvement Program contracted from the Bureau of Indian Affairs through the PL 93-638 Indian Self Determination Contracting completed an annual housing survey "Consolidated Housing

Inventory, Fiscal Year 1986." This report revealed that we have 1,538 homes on the reservation with fifty-six percent (56%) of the homes being in a substandard condition. Fifty percent (50%) of those units (44% overall) considered as standard are the homes we have constructed under the auspices of the Housing Authority and HUD. We have a total 333 homes built up to now. In addition there are eight hundred sixty-eight (868) considered substandard and three hundred eighty-eight (388) families need housing, this amounts to at least 1,256 homes needed on the reservation and this was in 1986. At todays figures, it is estimated that a total of 700 new homes are needed with another 700 needing extensive repairs to bring it up to a standard condition. By the year 2000, it is estimated that one thousand (1,000) new housing units will be needed. Multiply this amount by the total number of Indian Nations nationwide, this reveals an astronomical number of housing units needed, but today at a measly 2,000 units allocated each year, this situation is similar of either you, Chairman Inouye, or myself to be in a life or death 100 yard race with the United States fastest man, Mr. Carl Lewis, except that we run backwards. This in only intended to point out that this measly appropriation is totally inadequate, we need more appropriations every year. We are greatful for the 2,000 units, don't get me wrong, we appreciate what we are getting today, but to someday eliminate this drastic, inhuman housing situation in Indian Country, we need more units every year.

We need not only adequate appropriations for new housing construction under HUD, we drastically need the Home Improvement Program under the Bureau of Indian Affairs to maintain, renovate our Traditional homes and our current housing stock. Please see to it that this project receives adequate funding at the reservation level, not at the Central Office.

NEW HOUSING, NEW HORIZONS

With the above, Chairman Inouye and Members of the Committee, we have expressed to you that we NEED, and we want a housing assistance program for our Indian People, a program that is adequate, appropriate and one that we can work with.

The Indian Housing Program is it exist today has served its purpose, has provided housing in Indian Country, but there are problems in it. We have outlined to a small degree the problems and our recommendations to improve this system. When you receive input from the rest of Indian Country on this proposed bill, I am sure you will get other valuable information to finalize the bill with. one thing that we all agree on is that we need to set up the Indian Housing Program separately, then and only then can we establish a program for the Indian People by the Indian People. I say this because I am one of the Board of Directors on the National American Indian Housing Council. (NAIHC) and we as a national body have been pursuing this objective for several years. We will count on and will continue to work with you through the evolution of this historic legislation and we hope to enjoy this same committment from you.

Fruit for thoughts, in the future, the Indian Housing Program should be set up so that the local Indian Housing Authority and the local governing agencies control the housing program for the Indian People with HUD providing the financial support. What this will entail is that each Indian Housing Authority will be granted funds for a certain number of housing units and a requirement that the Indian Housing provide a certificate to HUD at the completion of the project, the certificate certifying the adequacy, structural soundness and the longivity of the units to be worthy of the financial support. This would allow the Indian Housing Authority to develop and build housing units more comparable, acceptable to their specific areas. The main requirement would be that the Indian Housing Authority build at least the specified number of units and that they are certifiable.

This process would eliminate the mundane volumes of regulations, monitoring requirements. All of Indian Country are normally considered as economically depressed areas anyway so why income limits? Each Indian area has its unique traditional housing, native architecture, construction, and most of all, philosphy. If we allow each Indian area the flexibilty , opportunity to build the type of housing they want, then maybe they will be more acceptable of the housing units which would encourage payments and have a potential positive effect on TARs. Pipelines will not be a problem as when the Indian People become involved in and are able to produce what would be their product, this encourages movement of the projects toward timely completions.

We have testified before the Housing Subcommittee on Housing and Community Development, February 24, 1988, supporting the bill, H.R. 3927, which is an attempt on that side to achieve this same goal. We hope you all will work together so that this mission will be successful.

Thank you, thank you very much for this pleasure to appear before you and we sincerely hope that this bill will survive and become law with the modifications recommended from Indian Country.

HOPI TRIBE POPULATION PROJECTIONS

1986	1987	1988
9454	9662	9874

2.2% average annual growth rate.

Source: Hopi Tribe Overall Economic Development Program. 1986 - 1988 Annual Report.

HOPI TRIBE UNEMPLOYMENT

1987
42%

Source: BIA Labor Force Report

FORM 5-5406
10/79

CONSOLIDATED HOUSING INVENTORY

FISCAL YEAR 1986

TRIBE/AGENCY/AREA	TOTAL NUMBER EXISTING HOUSING UNITS 1	HOUSING UNITS IN STANDARD CONDITION 2	HOUSING UNITS IN SUBSTANDARD CONDITION 3	HOUSING UNITS NEEDING RENOVATION 4	HOUSING UNITS NEEDING REPLACEMENT 5	FAMILIES NEEDING HOUSING 6	TOTAL NEW HOUSING UNITS REQUIRED 7
Bacavi	77	33	44	37	7	11	18
Hotevilla	169	19	150	111	39	25	64
Keams Canyon	30	21	9	6	3	6	9
Kykotsmovi	140	33	107	90	17	25	42
Moencopi	131	67	64	60	4	19	23
Mishongnovi	66	21	44	35	9	31	40
Oraibi	54	5	49	37	12	9	21
Polacca	154	72	82	75	7	61	68
Shipaulovi	66	16	50	45	5	10	15
Shungopavi	156	29	127	91	36	40	76
Sichomovi	64	12	52	48	4	12	16
Sunlight Mission	9	0	9	6	3	2	5
Tewa	51	2	49	45	4	5	9
Walpi	33	6	32	29	3	7	10
HUD	~~325~~ 333	~~325~~ 333				125	125
TOTAL	1538 1,530	669 661	868	715	153	383	541
*Number of units added	(+82)	(+3)	(+79)	(+22)	(+57)	(+23)	(+85)

RESOLUTION
88-01

Resolution of the Southwest Indian Housing Authorities Association Supporting Senate Bill 1987.

WHEREAS, the Southwest Indian Housing Authorities Association (SWIHAA), is an organization representing 39 Indian Housing Authorities in the States of New Mexico, Arizona, California, Nevada and Texas; and

WHEREAS, Indian Housing programs deal with unique problems and situations on Indian land which are not adaquately addressed in existing Public Housing regulations; and

WHEREAS, due to economic conditions and unavailability of alternative housing on Indian lands, the separation of Indian Housing regulations from public housing, as well as reduction of the 30% rule to 20%, would help alleviate the housing problems in the rental programs.

NOW, THEREFORE BE IT RESOLVED that the Southwest Indian Housing Authorities Association membership fully supports passage of Senate bill 1987.

CERTIFICATION

I hereby certify that Resolution 88-1 was duly considered at a regularly called meeting of the membership on April 19, 1988, and that Resolution 88-01 was approved by a vote of 26 for, 0 against, 13 absent and 0 abstaining.

Barbara Byestewa, Secretary

TESTIMONY

OF

ROGER A. JOURDAIN, CHAIRMAN
RED LAKE BAND OF CHIPPEWA INDIANS

AND

GEORGE GAASVIG, EXECUTIVE DIRECTOR
RED LAKE RESERVATION HOUSING AUTHORITY

ON BEHALF OF

TRIBAL COUNCIL OF THE RED LAKE BAND OF CHIPPEWA INDIANS

RED LAKE RESERVATION HOUSING AUTHORITY

TRI-STATE ASSOCIATION OF
MICHIGAN, MINNESOTA, & WISCONSIN
INDIAN HOUSING AUTHORITIES

ENDORSED BY THE
NATIONAL AMERICAN INDIAN HOUSING COUNCIL

ON

S. 1987

"THE INDIAN HOUSING ACT OF 1987"

BEFORE THE

UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

APRIL 20, 1988

I. OPENING REMARKS.

A. Introduction.

Mr. Chairman and members of this Committee, I am Roger A. Jourdain, Chairman of the Red Lake Band of Chippewa Indians. Appearing with me is Mr. George Gaasvig, Executive Director of our Tribe's housing authority.

We are quite pleased to have this opportunity to appear before you today and testify in support of S. 1987, the Indian Housing Act of 1987. This testimony is presented on behalf of the Red Lake Band of Chippewas, and the Tri-State Association of Michigan, Minnesota and Wisconsin Indian Housing Authorities. It is also endorsed by the National American Indian Housing Council.

Mr. Chairman, it is important to note that at the present time there is no HUD Indian housing program. There is a HUD public housing program being used to serve Indian families. S. 1987 would for the first time create a HUD Indian housing program.

Therefore, our testimony will be in two parts -- First, a specific focus on the immediate bill before us today, S. 1987, and second, a long-range outline of comprehensive legislative changes that absolutely must be made in order for an Indian housing program to effectively meet the critical housing needs on Indian reservations.

Do not mistake the second part of our testimony to indicate that we want you to immediately consider and incorporate these changes into S. 1987, however. The fundamental character of the long-range changes we propose may slow, if not stall, the steady progress of S. 1987. Some of the ideas we raise for your long-range consideration have been studied to death, but would, by their very nature, invite more study. Some may invite initial opposition from your colleagues on Capitol Hill. While we are convinced that we eventually can and will win over that opposition because of the reasonableness of our proposals in the context of Indian Country, the process of explanation and persuasion is a large task that has barely begun. This political education will devour time, precious time which we simply cannot afford to waste.

We must instead get on with changes, step by step, piece by piece, and S. 1987 begins that process in a very important way -- it separates out and consolidates the U.S. Department of Housing and Urban Development (HUD) Indian Housing Program and gives it a statutory base. This is a critical first step. It is also a politically feasible step, one necessary for the fundamental changes we have long sought.

Let there be no confusion, therefore, we are here today to strongly urge you to quickly move S. 1987 through Congress, temporarily setting aside our longer-range requests.

B. Red Lake Housing Background.

Before white settlement, the territory of the Red Lake Band of Chippewa Indians encompassed approximately 13 million acres. After major cessions of land in the late 1800s and early 1900s, the size of the reservation today is approximately 543,000 acres, nearly 1/26th its original size. Some 5,300 tribal members live on reservation today, and nearly 2,000 live off reservation primarily due to the lack of employment and housing opportunities on the reservation.

Many of the 5,300 residents of Red Lake reservation live in what must be called, by any standard, deplorable housing conditions. Of the 898 existing housing units at Red Lake, the breakdown is as follows: 423 existing housing authority managed units supplied through HUD; 341 non-IHA units; 108 non-IHA units which are in substandard condition (in need of major repairs or without sewer/water); and 26 non-IHA units requiring replacement. In addition, the housing authority has 352 applications on file for housing. Many of the existing units house more than one, and up to four, families in an average three-bedroom home. There are no vacant housing units at Red Lake.

Across Indian Country today, 92,580 Indian families are in critical need of housing assistance, according to the Bureau of Indian Affairs' most recent Consolidated Housing Inventory. Of these families, 52,700 require new houses to be built either because they are homeless or their current shelter is in such a deteriorated, crowded condition that it cannot be rehabilitated. At HUD's current level of 2,000 new housing unit starts per year, it will be the year 2018 before today's new housing need is met! Twenty percent of Indian communities now lack basic water and sanitary sewer services.

The Indian population has increased by about 25% since 1980 and the median age is between 20-25 years. When population trends are considered alongside the acute reservation housing shortage, it is clear that the survival of reservation life and tribal governments is imperiled by the housing crisis.

If more and more young Indian people can no longer find housing on the reservation, reservation populations will decrease. Tribal governments will wither without people. Tribal cultures will be decimated without people. A way of life will perish without people. Housing, like food, is a basic requirement for life. The chokehold that the paralyzed and dwindling HUD Indian housing program has on the future of tribal governments and their people is alarming.

Our Red Lake Reservation Housing Authority is battling against extreme odds. We have a soundly managed program that administers four different types of HUD program housing units. These programs include: the Low Income Rental Program which serves 173 families, the Old Mutual Help Program which serves 125 families, the Homeownership Program for Low Income Families (Turnkey III) which serves 55 families, and the New Mutual Help Program serving 70 families. We are also constructing an additional 60 New Mutual Help Program units this summer. Of the 423 units, 160 were constructed in the 1960s, 135 were constructed in the 1970s, and 128 have been constructed in the 1980s plus the additional 60 units to be constructed this summer. The annual income range of those families served is from less than $2,000 per year to approximately $25,000, with the average income less than $8,000 per year. The reservation-wide housing unit size averages out at three-bedrooms with six occupants. The average non-HUD units are smaller in size but with the same number of occupants per unit.

II. SPECIFIC COMMENTS ON S. 1987.

A. S. 1987 Separates the HUD Indian Housing Program from Regular Public Housing -- An Absolutely Vital and Positive Step Toward Change.

S. 1987 would separate the Indian housing program at HUD from HUD's regular, urban-oriented public housing programs. Separation is an absolutely vital, first step in the process of bringing about fundamental reforms in the HUD Indian housing program.

There are great differences between HUD's regular, urban-oriented public housing and Indian housing program requirements. These continually surface in our administration of HUD programs, but the HUD bureaucracy simply has not been responsive to our complaints nor our suggestions for change.

The inclusion of Indian housing in the legislative design for public housing has been on the basis of haphazard after-thought, not careful study. As a result, we are continually forced to administer

Indian housing programs by exception or waiver. Obviously this is a highly inefficient and frustrating way to run a program.

Codification and revision of a separate Indian Housing Program would be a major advance in our efforts to simplify the program so as to improve the delivery and administration of HUD Indian housing. As HUD's own Inspector General has concluded in its audit report 86-TS-101-0018, June 19, 1986, separation of the HUD Indian Housing Program is necessary to fulfill HUD's responsibilities and to permit HUD officials to focus on the unique aspects of Indian housing and not the artificial problems created by complex and inapplicable public housing requirements. S. 1987 could lead to a significant reduction in HUD involvement to oversight, thereby providing greater cost/benefit per dollar spent. Codification can be accomplished without the establishment of a whole new bureaucracy.

Codification of the HUD Indian Housing Program should result in all statutes relating to the Indian Housing Program being placed into one, coherent chapter of the United States Code. Although technical in nature, this would be a welcome improvement to those administrators who have tried to divine which sections of the voluminous and complex HUD public housing statutes relate to our HUD Indian Housing Program. Codification should also lead to the creation of a separate and comprehensive part of the Code of Federal Regulations containing all of the regulations relating to HUD Indian Housing Programs. Coherent and consolidated regulations would permit operation of HUD Indian Housing Programs by rational design rather than the present operation by exceptions, waivers, and exemptions. Condensing materials and eliminating unnecessary paperwork will assist a great deal in the success of the program and in the retention of skilled Indian Housing Authority (IHA) staff.

Codification is the first step needed to remove the irregularities plaguing the current HUD Indian Housing Program. One perhaps trivial but revealing example of this can be found in the fact that HUD spares no expense to bring public housing executive directors from across the nation to Washington, D.C. for an annual conference to recognize outstanding performances by directors. But IHA executive directors have been regularly excluded from consideration and participation. Yet the responsibilities of public and Indian housing authority directors are similar. Ironically, the separation of the two programs envisioned in S. 1987 is already partially in place -- where it is in the best interest of some HUD officials. Let me hasten to add that we of course would rather see the funding for such events go directly to housing Indian families.

B. S. 1987 Adapts HUD Indian Rental Formulas to Indian Economic Realities.

We are in strong support of the provision in S. 1987 which would reduce the percentage of family income to be paid for subsidized housing rent from 30% to 20%, recognizing the uniquely depressed economies on Indian reservations. §202(a)(2). We also support the adjustments to family income for the "excessive travel costs" unique to many reservations. §202(b)(5)(D)(ii).

For a long time, we have been trying to educate public housing policy makers about the added expenses incurred by Indian families in individual homes, in remote areas, with limited means of transportation, far from employment sources, and under the poorest economic conditions in the United States. These Indian Country economic realities simply do not fit within the HUD program parameters designed for urban areas, close to mass transit, adjacent to necessary services and in the proximity of available employment. Ludicrous results ensue from this ill-fitting merger of reservation life and HUD urban-oriented programs.

The unique differences of Indian Country have not been accounted for in the computation of adjusted income for Indian housing programs, resulting in Indian families paying a disproportionate share of their spendable income for housing. Depressed reservation economies result in high unemployment, or sporadic employment at best, for many families in subsidized housing. Other families' livelihood is solely dependent upon seasonal employment, virtually unheard of in the urban public housing context. The dollars retained by low-income Indian families and applied to the upkeep of their homes as a result of this revision would greatly reduce the future need for federal subsidies for maintenance and repairs.

C. S. 1987 Ensures that Recaptured HUD Funds Benefit Indian Housing.

S. 1987 contains an important provision requiring HUD to retarget to Indian housing any budget authority for the construction of new Indian housing that is recaptured by HUD. §214.

In recent years, HUD has recaptured funds allocated to IHAs because the IHAs were unable to use it within HUD's timeframes. HUD has then taken that money and reallocated it to non-Indian housing purposes or returned it to the U.S. Treasury. Many times the delays were due not to IHA mismanagement or negligence but instead to HUD bureaucratic foot-dragging. Since frequent waivers and exceptions are the rule and are performed on a case by case basis by HUD Indian Program offices that are understaffed, the failure to meet IHA development timelines is actually HUD caused. Thus HUD's efforts to recapture and divert Indian housing development funds to non-Indian projects penalize not only an innocent IHA but also all of Indian Country. In the context of the Reagan administration's continuing attempts to defund the HUD Indian Housing Program, these recapture efforts have struck a death blow to tribal efforts to maintain at least some new housing construction starts on Indian reservations. S. 1987 would guarantee a HUD recapture and reuse policy that is more equitably administered.

D. S. 1987 Conforms Occupancy Formulas More Closely to Indian Reservation Realities.

S. 1987 corrects a serious problem that arose for HUD Indian programs when Congress restricted the occupancy of 95% of all subsidized housing to families defined as "very low income." Section 210 permits up to 25% of HUD subsidized dwellings to be leased to lower-income families, and reserves the balance for "very low-income families.

The HUD-Indian Mutual Help Homeownership Program, for which there is no counterpart in regular public housing, was inadvertently restricted by the 95% rule. Mutual help homes were designed for families who specifically were not in the category of very low income -- families for whom home ownership was a real possibility. Unless §210 of S. 1987 is enacted, HUD bureaucrats will continue to have the power to impose the 95% rule that disrupts the orderly and equitable administration of the Mutual Help programs.

E. S. 1987 Must Be Amended to Ensure that Indian Trust Land Is Not Threatened by IHA Defaults.

IHA properties are now often built on trust land leased for 25 years (with an automatic extension of 25 years). S. 1987 contains a provision in §205(e) that is identical to a provision in current law which permits the HUD Secretary to require conveyance of title to a HUD-constructed facility and, presumably, the trust land on which it is built, to HUD if an IHA substantially defaults in its agreement with HUD. HUD would hold title until all defaults are cured, and then reconvey title to the IHA "or to its successor." Current HUD public housing law requires every contract for contributions with HUD to contain such a provision.

While HUD is obligated to reconvey title to the defaulted project back to a successor housing authority after the default problems are removed, the statute does not specifically require that the new housing authority necessarily be one created by the tribal government body with jurisdiction over the trust land involved. In theory, this provides some latitude for HUD to reconvey title to trust land to an entity outside of the control of the involved Tribe and could unnecessarily cloud Indian trust title. The default and title conveyance section of the old HUD law likely was not written with Indian trust land in mind. But reenactment of this exact provision within S. 1987, a specifically Indian housing bill, could permit HUD bureaucrats to issue regulations that threaten trust land.

There is a practical and simple solution to this problem. As the law now stands, and as §205(e) now reads, HUD is additionally provided with another means to resolve a default situation -- temporary repossession of the defaulted property and redelivery of possession after the default situation is resolved. Thus HUD now has a sufficient and effective alternative means to resolve a default situation, which renders extraneous the title conveyance provision that threatens Indian trust land.

Section 205(e) should be amended to delete all references to HUD's option to convey title, retaining instead HUD's option to possess and redeliver possession of the project. In the alternative, this Committee should make clear in report or bill language that in no way shall HUD take any action under Section 205(e) which adversely affects any trust land upon which HUD facilities are built.

F. S. 1987 Should Be Amended to Retain the Full Definition of Indian Tribe In Conformity to the 1937 Act.

S. 1987 retains the present HUD definition of Indian Tribes and Indians eligible for HUD Indian housing. But the bill drops Indian Tribe from the present statutory definition of a state government. Obviously the Red Lake Band of Chippewa Indians does not wish to be considered a state. We are a sovereign nation and deal directly with the United States.

The current HUD statute, however, has authorized the HUD Indian Housing Program via a cumbersome, two-step process. Tribes are included under the definition of a "state". A public housing agency is then defined as including a state (which also means a Tribe) or "agency or instrumentality thereof." The result of this two-step is that Indian Housing Authorities are deemed instrumentalities of tribal governments, meaning IHAs are created by and accountable to tribal governments. The current regulations specifically interpret the statute this way.

S. 1987 would incorporate into statute the current regulation that requires an IHA to be established by a tribal government. But it also incorporates the regulation's language permitting an IHA to be created by a state government as well. While this flexibility is perhaps worthy of preservation, S. 1987's deletion of the statutory two-step authorization could lead HUD regulation writers, or courts trying to interpret congressional action, to presume a congressional intent to permit the establishment of IHAs without the express authorization of the involved Indian Tribe. While the changed definitions may not change the working relationships of IHAs and tribal governments, the current definition has made it plain that IHAs are arms of, and under the general jurisdiction of, tribal governments. In order to maintain an active tribal government role in HUD Indian housing, guarantee that the relationships between tribal governments and IHAs is not disturbed, and to emphasize the continuing importance of tribal government control over IHAs, we suggest consideration of an amendment to §2(d)(2), located on p. 51, lines 24-26 and p. 52, lines 1-2 of S. 1987, which would insert before the period at the end of the paragraph (7) the phrase: "and Indian Tribe. Such an amendment would bring the S. 1987 into conformity with the House bill on Indian housing, H.R. 3927, which retains the current definitions.

III. A NEW BEGINNING IN INDIAN HOUSING -- LONG-RANGE PROPOSALS FOR REFORMING HUD INDIAN HOUSING PROGRAMS.

A. Introduction.

Indian communities work hard at trying to make the HUD Indian Housing Program successful. The HUD Indian Housing Program has been available to Indian families for 25 years. Our experience over these years has taught us a lot about the HUD Indian Housing Program, both good and bad. As indicated in the following pages, the HUD Indian Housing Program requires many changes before it will do justice to Indian families.

In what follows, we will discuss a number of key factors that have directly contributed to the inability of the existing HUD Indian Housing Program to function the way it was supposed to when it was first created. By airing these critiques, we do not mean to imply that the HUD Indian Housing Program is not producing houses nor that there are nothing but problems with the programs. In fact, the HUD Indian Housing Program is providing housing to families on a regular basis. And on many reservations with depressed economies, the development of a housing project is doubly good news to the local population because it also promises short-term jobs as well as shelter.

With the advantage of hindsight and our track record of experience, we are ready to propose pragmatic, necessary revisions to correct the fundamental flaws in the setup of the HUD Indian Housing Program that will eliminate previously unforeseen hardships and provide desperately needed Indian housing in a much more efficient and effective manner as a true Indian Housing Program.

B. The Ravages of Inflation on Indian Housing.

The double-digit inflation that raged throughout the 1970s and eroded the value of the dollar in the 1980s has resulted in low-income families paying a much greater share of their limited spendable income for shelter, thereby reducing income available for other essentials. In the 1970s, Congress passed the Brooke Amendment which based the rent of families in federally subsidized housing on their ability to pay, with a cap of 25% of adjusted income. Inflation and recession eroded the value of this formula in the 1970s. Low-income families faced increased hardship in the early 1980s when Congress increased the rental ceiling to 30% of income, cutting more deeply into paltry family budgets otherwise required for essentials such as food, clothing, utilities, education, transportation, and house maintenance.

Old Mutual Help Program participants were among those most sharply hit by inflation, due to the fixed contractual aspects of their Homebuyer Agreements which requires a minimum monthly payment in addition to payment by Homebuyers of all costs for utilities and maintenance, even though these Homebuyers were, by intent of Congress, many of the poorest families on the reservations.

Although with respect to rental tenants the Brooke Amendment cushioned the impact of inflation on rent, utilities, and maintenance assistance, rental families were still required to devote more and more of their spendable income on housing.

Inflation's impact on the management of Indian Housing Authorities has been obvious and severe. It has directly contributed to reduced tenant/homebuyer maintenance, increased tenant accounts receivables (TARs), increased designations of "financially troubled", more and more evictions or loss of units due to nonpayment by families with few if any alternatives to homelessness, and sanctions from HUD for non-collections.

Ironically, hindsight now reveals that little if anything was gained by Congress's refusal to adjust payments for subsidized housing payments at the time when the financial adversities were peaking. Maintenance on the public housing stock homes suffered dramatically because scarce dollars were put to more immediate needs. The short-term gain has become a long-term loss, as the housing stock has seriously deteriorated. It should be noted that the deterioration came also at the less quantifiable, but even more real, expense of the families who have had to reside, day in and day out, in degenerating and overcrowded housing conditions.

Congress needs to wrestle with this problem specifically as it applies on Indian reservations. Studies should be made to determine the actual impact of inflation and other contributing factors on the rent/payments of subsidized housing participants, including those families in the Old Mutual Help Program. Then, tailored to the economy of Indian Country, appropriate adjustments should be made to the rent payment formulas and percentages based upon Indian families' real, not assumed, abilities to pay.

Congress must also recognize the disparities between the theory and the reality of the Old Mutual Help Program, brought on by such things as inflation, and make provision for assistance when incomes fall below predetermined levels. If a contributions procedure based upon a family's ability to pay were used, it could mean the difference between the retention and loss of a home during a temporary, but critical time in the family's life. Such emergency assistance need not be in dollars, but could take the form of a temporary waiver of payments, conversion to rental status for a temporary period, or similar measures.

Congress should make provision for a forbearance clause in the mutual help programs. The lack of sustained and year-round employment on reservations, uncontrolled inflation, deaths of spouses, and other severe hardships, require a provision for forbearance. Forbearance would also provide a system whereby housing authorities could account for uncontrolled events without being labeled "financially troubled" because they lack any option other than the harshest imaginable one in such circumstances of personal hardship -- eviction. Forbearance provisions make sound business sense. Nearly all home purchase agreements in the private sector, including mortgages for higher-income homebuyers, include forbearance provisions. Yet our government's own program fails to do so, even though it is purportedly designed to assist homebuyers with mercurial incomes in areas of the highest unemployment.

C. Ill-Suited Rent and Payment Formulas.

Since the issuance of the Interim Indian Housing Handbook, HUD 7440.1, in March of 1976, the management of Indian Housing Authorities has been measured by how effective are their rent collections efforts. This measure was imposed without any study being made to learn if rent payment determinations for subsidized Indian housing place an unequal burden of payment on Indian families as compared to non-Indian families.

Unemployment, especially under the Old Mutual Help Program where fixed commitments are required, can jeopardize a family's home after years of diligent sacrifice, right at a time when the family critically needs assistance rather than another catastrophic hardship like becoming homeless. The loss of employment is traumatic enough, but to be followed by the threatened loss of one's home due to a temporary lack of income is not how the mutual help programs were intended to work. Yet this is a frequent result of the application of typically ill-fitting public housing program requirements on Indian reservations.

Congress must seriously consider removing Indian Housing Authorities from the requirements of the Brooke Amendment and allowing each IHA to develop payment schedules appropriate for their economic situation and in keeping with the original congressional intent to provide affordable housing to low-income families. Fixed rent payments should be permitted for those who desire to use them, with care exercised to ensure that they not have the effect of pricing low income families out of affordable housing. Fixed rent payment schedules can encourage personal incentive to increase family income levels and improve living standards. It would also require some payment from all participants since the lack of payments by some participants can be a constant source of irritation at the reservation level. The annual and often meaningless ritual of family income recertification could thereby be eliminated, saving the IHA considerable time, energy, and expense.

Congress should also remove the computation of the utility allowance from the rent payment determination, thereby assuring a minimum rent payment from all participants. This would eliminate negative rents, which erode pride and dignity when shelter is provided to some at no cost whatsoever, while hard-working neighbors must pay more as their incomes rise. Understandable confusion and frustration arise from these situations for both the housing authority and its more diligent participants.

Congress should require that participants' utility payments be paid directly to the utility company by the housing authority. The utility payment level could be determined by (but not exceed) the utility allowance schedules. This would avoid the current possibility of duplicate utility payments to a single family from more than one assistance program source such as the Housing Authority, Energy Assistance, or General Assistance, and allow available federal dollars to serve more families in need.

Congress should consider allowing an IHA to require that rental payments from subsidized housing participants be by direct payment from the source of income. This would conform with one of the Inspector General's recommendations in its 1986 Report. Under current law, direct payments are an option but only if the participant agrees. This means that the idea only works for those who would normally pay any way. With tenant accounts receivables (TARs) now the single most visible program deficiency afflicting IHAs, this action would greatly assist IHAs in reducing the TARs problem. Other benefits would accrue -- such a direct payment program would provide the IHA with an early warning of a family's mounting economic difficulty because the IHA would be one of the first to know when the payment stream is terminated, thereby allowing the IHA to try to secure necessary assistance available to the family in the community until payments resume.

Congress should additionally permit a standard deduction, such as that used by the IRS, to assure that a family's basic survival costs are met prior to determination of rent payments. Income retained by a family of limited means can reduce assistance costs in the future by providing the family adequate funds for maintenance and upkeep of the home. For example, including a $1,000 deduction per household member would recognize the family's role in meeting critical needs, in addition to shelter. Under the 30% rent formula, a family of five with an income of $8,000 would pay 30% of $3,000 or $900 annual rent compared to the current $1,968 annual rent (assuming three dependents). The additional $1,068 of spendable income to a family at the poverty level would result in a dramatic increase in their living standard. As you get into higher incomes, and the same fixed percentages are applied, the impact on available spending money is less striking. For instance, at an income of $16,000, the same family would pay $3,300 annual rent, but still have $12,700 for other essentials. In addition, once the housing authority can show participant families that a more reasonable income provision has been made for the family, a family's self-initiative will be strengthened and rental collection rates would improve. Over time, the housing authority will achieve a more favorable image, resulting in improved relations and reduced conflicts throughout the program.

Congress should also provide for a maintenance fee to be part of the Mutual Help Program minimum monthly administration fee for each participant. The fee would accumulate in each participant's equity account to be used for maintenance of the unit. Currently, unless a participant's required monthly payment is more than the minimum, no money is accrued in that participant's account for emergency or routine repairs to the unit.

D. Problems Crippling the Old Mutual Help Program.

The Old Mutual Help Program has evolved into a program far different from the original vision of its founders. At its inception in the 1960s, the program was intended to serve the lowest income families on Indian reservations, meaning those families who could not afford to pay rent under the Low Income Rental Program. At the time, the rental program had fixed rents, requiring renters to meet higher income levels in order to become renters. The Old Mutual Help Program was fashioned to provide affordable housing by involving lower income families in the construction of their homes under a Mutual Help Agreement in which they would have to make at least a minimum monthly payment in addition to paying all utilities and maintenance costs on their home. Passage of the Brooke Amendment together with the ravages of inflation in the 1970s, has changed this picture dramatically.

The Brooke Amendment (rental rate based on ability to pay) gave considerable assistance to rental families. In rental homes, the routine maintenance was paid by the housing authority. Rent and utility payments were capped at 25% of adjusted income. Because of the interplay of extremely low incomes on Indian reservations and these formulas, many rental families were not required to pay rent and also had part of their utilities paid from their subsidy through the housing authority. In contrast, the families in the Old Mutual Help Program, who were of lower incomes than rental families, received no assistance with their payments, utilities or maintenance. As inflation eroded the spendable income of these families, and as heating costs sharply rose during the oil crisis, Old Mutual Help families fell further and further behind as the hard realities of home ownership surfaced. Through no fault of their own, they began to lose their homes.

In 1976, the Old Mutual Help Program was revised into the New Mutual Help Program, with critical changes which completely reversed the roles of all housing programs. To qualify for a New Mutual Help Program home, a family now had to have sufficient income to afford the realities of home ownership, including at least minimum payments (based on income of the household), utilities, appliance replacements, water pump replacements, drainfield revisions, and all maintenance on the home. The change to a New Mutual Help Program did nothing to resolve the problems in the Old Mutual Help Program, but it did redirect the emphasis of the rental program to serve lower and now very low income families.

Since 1976, nothing has been done to alleviate the burden placed on the Old Mutual Help Program participants, and the tenant accounts receivables of the program continue to plague housing authorities and invoke sanctions from HUD for not evicting or collecting from these families.

Congress should provide that participants' payments under the Old Mutual Help Program be adjusted to an ability to pay basis similar to that provided renters under the Brooke Amendment, without jeopardizing their home ownership potential. The continued hardship of excessive payment requirements in relation to their income has placed many families in crisis and left many homes in need of substantial repairs. Congress should also provide assistance funds for maintenance, payments, and utilities as necessary.

Congress should consider expediting the transfer of home ownership, possibly under debt forgiveness legislation, in cases where no hardship will befall the participant or the housing authority, in order to relieve these families of additional hardship and loss near the end of their Mutual Help Agreement. A program needs to be developed which will assure these families that some assistance will be available to them after transfer of home ownership that will help ensure that they will not lose their home in the event of family catastrophy or disaster.

Congress should also provide for conversion of the old Turnkey III program units and Old Mutual Help units to the New Mutual Help

Program, or to rental status, at the option of the participant and in the best interest of the participant. These two older programs are no longer developed, and conversion would greatly aid resolution of problems in administering these old programs. Corresponding reductions in accounting functions and paperwork would more than justify any inconvenience arising from conversion, not to mention the short-and-long-term reduction of hardship on the participants.

E. HUD Support for Indian Housing Must Be Activated by Congress.

Under the current HUD administration, the Indian Housing Program has suffered a two-thirds cut in new development funding. In addition, HUD has regularly threatened appropriated Indian housing funds through recision and recapture efforts aimed at Indian housing programs. This is recently evidenced by the Reagan administration's unilateral halving of the Indian housing allocation from the 2,000 unit figure agreed upon by the Congress and the administration for FY 1989 to 1,000 units. These battles have further diverted energies required to provide decent housing for Indian families. Only because of Congress's concern and commitments, together with the diligent efforts of Tribes, tribal government leaders, tribal organizations, and Indian housing authorities, has the program continued to survive these assaults, albeit at a much-reduced level of assistance to homeless Indian families.

The Inspector General's Report of 1986 on "The Development & Management of Indian Housing," made several recommendations for change in the HUD Indian Housing Program, especially at the HUD Administration level. Some of the recommendations include:

1. Simplify the program to meet needs and conditions at the reservation level.
2. Reduce program types to two to provide less complex administration by Indian housing authorities.
3. Simplify regulations.
4. Improve management capabilities.
5. Eliminate complex accounting requirements.
6. Establish standards of performance.
7. Streamline the development process.
8. Provide for site development before unit allocations.
9. Place HUD's Regional Offices of Indian Programs under the direction of HUD's central Office of Indian Housing.

Although HUD has addressed some of the recommendations, much more must be done.

We are increasingly concerned by the lack of support and productivity from several individuals in HUD's Central Office of

Indian Housing. Consolidated Indian housing program regulations, which were supposed to have been out last year, have been long-delayed. These regulations would be of tremendous benefit to Indian housing authority directors in daily operations. The employment of Indian people in the HUD Indian Program Offices has been at only minimal, near token levels, thereby precluding the development of understandings of reservation life that are necessary to adequately and efficiently address reservation needs. Chronic staff shortages in the Indian program offices perpetually result in questions going unanswered and decisions unresolved for weeks as an already-short staff is required to cover duties of the vacated positions.

At present, plans developed at the headquarter's Office of Indian Housing are often ignored by the regional level offices because the Regional Office administrators have line authority over the regional OIPs. This has caused great variations between OIP regions in program administration and in the implementation of regulations. In many cases, Indian housing directors must rely on each other for information on the administration of the program. Discrepancies in procedures or policies between regions add frustration and confusion to an already uncertain situation. Improved lines of authority would provide the possibility for more HUD assistance to Indian Housing Authorities in the area of standardized policies and procedures, boiler plates for repetitive operations, and revised forms to address changing regulations. Most if not all of the Indian Housing Authorities must now "reinvent the wheel" for many operations, policies, and procedures that are identical for all Indian Housing Authorities but for which no forum is available to standardize and distribute work products of the individual housing authorities.

Congress should establish a direct line of authority from HUD's Central Office of Indian Housing to its Regional Offices of Indian Programs (OIPs). If revisions to the Indian housing program include reductions in regulations to afford a more efficient program, direct authority over regional offices would minimize delays and excessive paper work for all parties involved.

Congress should expand HUD's Indian preference policy to include Indian preference in employment for staff positions in the OIPs and Central Office of Indian Housing. Employment of Indian people would offer greater understanding and communication opportunities between program offices and Indian housing authorities. Congress should also ensure that adequate staffing levels are guaranteed to HUD's Indian Housing Program to assure an efficient operation. Congress should also consider ordering a comprehensive revision and reduction of regulations by requiring the delegation of more responsibility to Indian housing authorities while retaining effective HUD oversight.

F. HUD Must Be Ordered to Support Sound IHA Management.

Our base of experience at Red Lake has led us to believe that Indian Housing Authority Executive Directors perform a unique and often impossible task. While housing authorities are condemned by HUD for high tenant accounts receivables (TARs) and for being on the "financially troubled" list, directors must work with an insufficient budget, a skeletal staff, and an accounting system that is, to put it gently, uniquely illogical. All aspects of the nationwide public housing program must be totally understood, according to HUD Management and Development Representatives, or the label of a mismanaged housing authority will be applied systematically to the entire local Indian housing program. All of the above must be performed within the parameters of a program designed and funded for urban areas, but applied by most Indian Housing Authorities on remote reservations with units scattered over hundreds of square miles, with budgets based on the number of units served without any provision for the unique differences between public and Indian Housing Authorities.

In order to operate a successful housing authority, it must be staffed with qualified staff. In many cases Indian Housing Authorities are not able to attract already experienced or trained staff due to the fact that the Performance Funding System (PFS) formula does not provide adequate funding for the smaller IHAs. The HUD Indian Housing Program has provided very little training from certified trainers with experience in Indian housing. The training currently required under public housing training programs bears little resemblance to the HUD Indian Housing Programs administered on reservations. Inadequate training has long been identified as a contributor to many deficiencies found in IHA management. IHA salaries are not sufficient to attract individuals already possessing the necessary qualifications or experience. The result has been that most staff and especially the executive directors of Indian housing authorities have learned the program through on the job training.

In many cases it takes several years to attain a working knowledge of the HUD Indian Housing Program due to its complexity. This is generally longer than the average four-year term of employment of most directors. Consequently, very few Indian Housing Authority directors get the opportunity to understand the program well enough to do an in-depth study for the purpose of correcting or exposing the programs' problems. Instead, they are kept busy trying to patch the program together when in fact, the program design is fatally flawed because of the environment in which it has been placed. No one dares complain for fear it would simply fuel efforts to eliminate the entire HUD Indian Housing Program due to perceived waste and abuse. Often these perceptions are misunderstandings of good faith efforts to make this ill-fitting program work in a context other than that originally intended. The high rate of turnover in directors of Indian Housing Authorities is directly caused by these frustrations.

Congress should direct HUD to provide resources and funding to Indian Housing Authorities to improve their management capabilities. This should be done expressly through training by certified Indian housing trainers with demonstrated experience and expertise in the field of Indian housing. Most importantly, make provision for the smallest and least funded housing authorities to have adequate training and interaction with existing program directors so that all available resources may be utilized to assist new authorities.

Congress should require HUD to simplify the now overly-complex accounting requirements so that Indian Housing Authority staff can efficiently perform the accounting services themselves with less reliance upon contracted accountant services. If IHA staff gain a greater understanding of the accounting aspects of the HUD Indian Housing Program, they will necessarily have a more thorough understanding of the entire program.

Congress should also provide adequate funding for training of IHA directors and staff to achieve the long-term goal of sustained employment and expertise of operations at each Indian Housing Authority.

Congress must direct that HUD accelerate the recovery of abandoned units, so that Indian Housing Authorities can reduce the security expenditures on abandoned units now required even on units in remote locations. Currently, a unit must be vacant for 30 days before the Indian Housing Authority may step in to reassign the unit. With the need for housing so great, this leads to significant administrative problems and costs. A revision of this provision to "5 to 10 days without informing the housing authority," would be more realistic given the situation.

Congress should determine the measurable differences between public and Indian housing in order to accurately revise and correct inequities in staffing, funding and management.

G. The Performance Funding System Must be Fundamentally Revised.

One primary difference between public and Indian Housing Authorities is in the appropriate levels of subsidy provided through the Performance Funding System (PFS). In our considerable number of years of experience in the field of Indian housing, we can state without question that the PFS formula has been a major obstacle to the successful operation of Indian Housing Authorities.

Indian Housing Authorities are small-sized compared to the large public housing agencies for which the housing programs have been designed. The average public housing authority manages approximately 2,500 units. The average Indian Housing Authority manages approximately 350 units. The PFS is designed to operate best with housing authorities managing a large number of units. It bases operating budget funding on the actual rents collected and a formula subsidy determined by the number of units served. The law of large numbers does not work for Indian Housing Authorities under the PFS formula. The ill-fitting, size-oriented PFS formula is a major contributing factor in the numerical growth of "financially troubled" Indian Housing Authorities.

Both public housing and Indian Housing Authorities must execute the same amount of administrative paper work, establish the same accounting systems, develop a maintenance program, and provide the same administrative services. In addition, Indian Housing Authorities are required to provide the same or more services, with fewer dollars, over greater distances, with fewer staff, less training, and on lower salaries than in public housing. When attempts have been made to bring this system-wide disparity to the attention of HUD officials, they have trivialized and dismissed our critiques as being merely bald attempts to get salary increases.

Congress must mandate the development of an Indian Performance Funding System that takes into account the unique requirements of providing Indian housing. Such a system should address the different needs arising in Indian reservation rural housing, such as the necessity of replacements of limited-life items like water pumps, drainfields, and heating equipment. It should also take care of the increased insurance costs due to the usual absence on reservations of urban-like fire protection and community water systems. It should also include a minimum funding level to Indian Housing Authorities to sustain operations at a reasonable level, regardless of the number of units managed.

Congress should also provide for meeting allowances for the commissioners of Indian Housing Authorities. Typically, Indian Housing Commissioners now must travel long distances to attend meetings. Often low income themselves, they should be reimbursed for their time and travel. The experience of Indian Housing Commissioners again is entirely different from that of regular Public Housing Commissioners. In authorizing regular public housing authorities, Congress recognized that a local business community would benefit from the significant government spending that occurs when a low income housing project is constructed and managed in a community. This attracts to the boards of public housing authorities business and professional people of the community who realize an indirect financial benefit to their business or profession. In the case of Indian Housing Authorities, the situation is totally removed from the premise upon which the public housing practice is based. The business and political worlds of the urban public housing context and the Indian reservation context are as different as night and day.

H. Development and Construction of New Housing Units.

Development of Indian housing is made especially complex by reason of the unique status of Indian land, the remoteness of the construction areas, and in many cases, very short construction seasons (in the northern United States and Alaska). To further complicate matters, each Indian housing project must be approved by the Bureau of Indian Affairs (BIA), Indian Health Service (IHS), State Historical Preservation Agency, utility companies and HUD, among others, prior to the development of any homes. With significantly depressed economies, Tribes do not have the funds available to begin to develop sites prior to the allocation of units from HUD. So normal site development typically is stalled by bureaucratic foot-dragging and in-fighting that creates impossible development timeline requirements at the construction site.

Many of the problems in developing Indian housing can be traced to the failure of the bureaucracies to coordinate their efforts so that an IHA can timely obtain the sites and get clearances for the development program. Added to this are substantial uncertainties about the role of the HUD Development Representatives and Inspectors, especially among small or new Indian Housing Authorities without experience or expertise. In many such cases, considerable IHA reliance on HUD turned out to be unwise for things like construction inspection, where the HUD-created category of technical assistance implied more than HUD actually provided.

In recent years, the re-use of plans and specifications has contributed significantly to the reduction in cost of new projects. In future years, as innovative and pilot projects are pursued, it may be possible to stretch the limited funds to provide additional units.

In order to address the lack of coordination among the bureaucracies, Congress should provide Indian Housing Authorities with the authority to use HUD construction funds as repayable advances for the timely and efficient development of sites and necessary infrastructure. HUD should provide additional funds for this purpose.

Congress should streamline the development process, using certified waivers and proclaimers in conjunction with HUD oversight wherever possible. Recognizing the established ability of many Indian Housing Authorities to develop professional projects with little or no outside assistance, Congress should minimize HUD controls so that limited HUD resources can be used to assist those most in need. For those IHAs in need of assistance, Congress should require HUD to place staff at all levels of the Offices of Indian Programs who have individual and considerable expertise in the development and construction areas of Indian housing.

Congress should require HUD to develop and provide IHAs with practical guides for the several different types of construction, including the steps and regulations that must be complied with throughout the stages of development. As regulations change, HUD should be required to update its guides.

Congress should require the execution of a new Tri-Agency Agreement between the IHS, BIA, and HUD to reaffirm and update their appropriate responsibilities in the development and construction of HUD Indian housing. The existing Tri-Agency Agreement has simply not worked because of the funding constraints of the BIA and IHS and the pass-through of HUD money to the IHS for off-site facilities on HUD projects.

Congress should obligate HUD to collect and standardize house plans and specifications it has approved at the central office level for use by Indian Housing Authorities as needed at no charge.

IV. CONCLUDING REMARKS.

The current Indian Housing Program, although extremely complex, still provides housing to Indian families like no other program of its kind ever has done. Our challenge is to provide more units, and to do it more effectively within recognized limits of funding. Although the daily operating frustrations may never be totally eliminated, it should be the goal of everyone connected with the program to strive towards minimizing delays and unnecessary regulation in the interest of providing housing to Indian families in the shortest possible time. To this end, the codification and technical revisions of the HUD Indian Housing Program proposed in S. 1987 are foundational.

It was a pleasure to appear before you today to indicate our support for S. 1987. It promises to begin a new day in Indian housing, a day for which members of the Red Lake Band have been waiting for quite some time. We will continue to work with this Committee and its staff to forge the legislation necessary. Mr. Gaasvig and I will be happy to answer any questions you might have.

TESTIMONY OF

MICHAEL W. ALLEN, SR.

President

Lac du Flambeau Band of Lake Superior Chippewa Indians

Lac du Flambeau, Wisconsin

SELECT COMMITTEE ON INDIAN AFFAIRS

April 20, 1988

Mister Chairman, honored members of the Committee, I am Michael Allen, Sr., President of the Lac du Flambeau Band of Lake Superior Chippewa Indians. Our tribe and reservation are located in northern Wisconsin.

I am here today to express my Tribe's strong support for s. 1987, the Indian Housing Act of 1988, and to urge you to work aggressively to ensue its quick enactment. I believe that the main message you will hear from "Indian country" on this bill is that it is the most promising way to address, at last, the ongoing crisis in Indian housing.

For more than two generations now you and those who came before you have heard the urgent plea from Indian country to assist us in putting an end to the travesty that passed for housing on Indian reservations.

You have heard that low income housing is the only practical means of providing decent, safe and sanitary housing of the reservation.

You have heard that private financing for new construction is not available or beyond the reach of our tribal members.

You have heard that there is no alternative housing on the reservation for tribal families and tribal elders -- rental units don't exist, and the remaining housing stock is woefully substandard.

Up to now our unique needs have been addressed only through the Housing Act of 1937 programs generally applicable across the country, with housing for Indian country included within the general low-income housing appropriation. For over a decade Indian country has complained that the housing needs of Indian people on our reservations must be addressed as a unique problem, and not within general nationwide low income housing programs.

S. 1987 would provide a realistic approach, at last, to addressing these concerns.

Our Tribe's situation illustrates the problems to be addressed. Our Tribe's reservation of 84,000 acres is located in prime lakeshore vacation country, and it contains many beautiful seasonal and year round lake homes. These belong to non-Indians, on fee land lost through the allotment process along lakeshores generations ago. When lots go for $25,000 and upward, such homes are beyond the reach of all but a tiny, tiny fraction of our members but stand as a daily reminder of the yawning gap between the promise of the American dream and the grim reality of economic destitution.

That reality begins with a depressed economy. Over 60% of the tribal on-reservation adult population is unemployed, and thus eligible for low income housing. Our Housing Authority maintains 273 rental units and 60 units in homeownership programs. But we have a current waiting list of 180 families and 37 elders for admission to those units. The demand for units is even higher if account is taken of those members who would like to move back to the reservation but cannot for lack of housing. They are not eligible for the waiting list. Right now, almost 95% of the housing for tribal members which meets minimum standards is HUD financed. Many families occupy substandard -- often severely substandard -- housing while waiting for over a year to obtain public housing.

The Tribe has a good housing program and is proud of its management of the federally funded housing units. But the need is greater still, and at present can only be met by unsafe, unsanitary and overcrowded substandard housing.

We don't need to dwell on those problems, but I must emphasize the frustration existing in our community and on the Tribal Council by our continued inability to meet those needs, to address these problems. Our increasing population, and the increasing return of tribal members from urban areas to the reservation, ensures that the need for decent housing is expanding geometrically while available funds dwindle. The frustration level will thus only increase if nothing is done to change the management and funding for Indian housing.

The first step is the long-overdue recognition that Indian housing needs are unique, must be addressed separately from low income housing needs, and must reflect the unique role of tribal government in the federal system. Section 201 of the bill does that, and we welcome it.

The bill also addresses the problem of rental levels. The high 30% level is driving families into substandard housing and substantially increasing housing authority management problems as receivable increased. This high rent level is our #1 problem with our existing housing, and the most important aspect of the bill is that reduction in rent it embraces. The 20% level is more realistic and affordable, and will help insure that families won't have to choose between rent and food. The changes in the homeownership program will also help.

The bill also makes welcome changes in the prototype cost, recognizing that prototype costs for Indian housing units cannot realistically be based on statewide averages. In the past, houses have been shortfunded on a per unit basis because state averages haven't taken account of higher construction costs due to distance from suppliers and lack of competitive bidders.

A final virtue of the bill deserves mention: it provides a mechanism to avoid the problems we have experienced in the past with our housing construction being held hostage to the availability of water and sewer funding from the Indian Health Service. By allowing advances for water and sewer systems, the bill will help solve the problems which have arisen in the past.

In closing, let me say that while we support the bill and believe it has widespread support in Indian country, I feel that its passage would bring only empty promises, not real change. Real change will occur only if the authorizing legislation is accompanied by an appropriation to match. Without recognition on the appropriations side that there are increased financial needs in Indian housing programs, the Indian Housing Act of 1988 will remain only another hollow gesture, another unfulfilled promise to Indian people.

We ask your support for the bill, but we also ask that your support not end with its enactment. You must also be committed to fund the legislation at an appropriation level that will allow us to build and maintain decent new homes on our reservation and the reservations across the country. With this bill and the money to support it, we will do the job.

Testimony of
Governor Bill Anoatubby
Before the
Senate Select Committee on
Indian Affairs
United States Senate

April 20, 1988

Before I begin my testimony, Mr. Chairman, please allow me to take this time to extend my thanks to you and to the members of the Committee. Testimony as will be offered here today is but another example of the democratic system at work-- an opportunity to have input into the legislative process. I appreciate being given this time so that I may testify on behalf of my constituents.

My name is Bill Anoatubby. I am the governor of the Chickasaw Nation, an Indian nation located in south central Oklahoma. Our jurisdictional territory covers more than 7,638 square miles with a total population of approximately 250,000, about 10% of whom are Indian.

In reviewing the proposed "Indian Housing Act of 1987," I find it is, in general terms, a good bill-- it provides for the separation of Indian housing from public housing and that is beneficial to Indian tribes and the Indian people whom they serve. Though the bill does not address all forms of Indian housing, such as the Mutual Help Program, it nonetheless makes a strong beginning for Indian housing to go in the right direction.

We feel it is extremely important for any legislation affecting the Indian housing programs in this country to address the needs of Indian housing as they relate directly to the Indian people. Throughout the history of the housing program in the United States, Indian housing programs have had to seek exceptions to many federal rules and, in some cases, to federal laws-- rules and laws which made no provisions for the unique status of Indian tribes nor for the unique situations in which many Indian housing authorities have found themselves. Having these exceptions made, to protect the rights of the Indian people, has been an oftentimes tedious and expensive proposition involving many, many hours of work both on the part of the tribes and on the part of our Congressional representatives. Senate Bill 1987 seeks to eliminate some of those problems which have arisen in the past and we appreciate the efforts of the authors and all those who have worked on this proposed measure.

The mere fact that this legislation exists and is being considered substantiates the need for separate legislation for Indian housing programs. Under current regulations, many of the requirements for public housing programs must be met by Indian housing programs as well, even though such requirements may not exactly fit the needs of the Indian housing programs. One of the best examples of this conflict is the fact that Indian housing authorities may not practice Indian preference in the housing portions of their programs. If Indian housing authorities and Indian housing programs are indeed designed to provide housing assistance to the Indian people, then it would also seem logical that such housing assistance would be provided to the Indian people first, with all others having a lesser priority for consideration. Under the current rules and regulations and even in this measure we are discussing today, there are no provisions made for Indian preference. We believe and strongly urge this committee that such provisions must be included. The legislation which effectively separates Indian housing programs from public housing programs should make a provision to allow the Indian housing authorities to provide their programs to the Indian people-- the citizens the programs are being designed to serve. Since this is not now currently the case, we would make this suggestion for inclusion in Senate Bill 1987.

The inclusion of the public comment on the development of any comprehensive plan for an Indian housing authority, at Section 209 (e), is very valuable in assuring that the needs of the Indian people will be met by the housing programs. We might suggest, however, that certain provisions might also be made which would allow for direct input from the tribal government in whose jurisidictional territory the authority is located, for the purposes of other areas of planning by the authority. This would seem a logical extension-- that is, to allow the tribal government to have some input in the programs which directly affect its citizens. Such an arrangement could foster a more cooperative relationship between the tribes and their corresponding housing authorities, which is not necessarily the case throughout Indian Country today.

Along those same lines, we would also recommend that consultation with the tribes themselves, in addition to consultation with tribal housing authorities, be included in relation to any proposed rule changes affecting Indian housing programs before such changes are emplaced. This, too, would allow for unprecedented direct input from the respective tribal governments.

Because a lot of the issues facing Indian housing authorities are unique to them when compared to public housing authorities, a measure such as this one will address some of those problems and provide a workable and dependable solution. The expansion of this bill to include programs unique to Indian housing, such as the Mutual Help Program, would be an added benefit. We would like to point out, however, that whenever changes are anticipated in legislation dealing with public housing, special note should also be taken as to the affect of such changes in relation to Indian housing-- and that consideration should be given so that changes made to public housing legislation should also be effective in relation to Indian housing programs.

There is currently a measure in the House of Representatives, H.R. 3917, which does address some of the other related matters which are not specifically included in S. 1987, such as the Mutual Help Housing Program. I would, with the Chair's indulgence, urge the members of this committee to consider the House proposal or at least to consider the inclusion of some of the provisions of the House measure into this Indian Housing Act of 1987. Mr. Key will examine this idea in more detail in his testimony.

I do appreciate all the hard work that has very evidently gone into the preparation of this bill. I congratulate the foresight of the members of this Committee and I again thank you for allowing me to offer testimony.

With these suggested changes, we feel that S. 1987 will be a stronger and more reliable piece of legislation. Again, I thank the members for allowing me to offer testimony and I appreciate your taking the time to listen to our comments.

PREPARED STATEMENT OF TED KEY, EXECUTIVE DIRECTOR , CHICKASAW NATION HOUSING AUTHORITY

Mr. Chairman and members of the Senate Select Committee on Indian Affairs, my name is Ted Key and I am the Executive Director of the Chickasaw Nation Housing Authority located in the State of Oklahoma. I represent the concerns and position of the 26 Indian Housing Authorities located in the States of Texas, Oklahoma, Kansas, Arkansas, and Louisiana. I thank you for this opportunity to appear and testify on the Senate Bill - S.1987, cited as the "Indian Housing Act of 1987.

First you need to know a little about the status of the Indian people I represent. In my area there are well over 200,000 Indian people. According to the Oklahoma State Employment Security Commission, the Indian unemployment rate is 14.1% as compared to the state general population unemployment rate of 6.2%. For every $100 that is earned by the average American family, $61 is earned by an Indian family in my area. Complicating the severe lack of stable economies and the high incidence of poverty among Indians is the lack of adequate, affordable, decent housing. While over 25% of the total Indian housing units provided through the Department of Housing and Urban Development have been built in my area, there remains today over 6,000 Indian families on waiting lists needing a decent place to live.

Currently, the 1937 Housing Act and its amendments do not recognize the critical differences between the Indian and Public Housing Programs. Most amendments are directed to the improvement of public housing which may or may not be applicable or appropriate to meeting the housing needs in Indian Country. However, for most Indian people, the H.U.D. Public Housing Program is the only means available for them to obtain decent, safe, and sanitary housing. It wasn't until 1961 that the Department of Housing and Urban Development administratively decided that the Housing Act of 1937 could serve Indian families in Indian Country. Since that time many proposals have been made to Congress and the Administration regarding the improvement of the Indian housing delivery system. The few amendments that have been approved have demanded time-consuming regulatory and handbook interpretations before Indian field offices and Indian Housing Authorities (I.H.A.) could appropriately respond and implement such changes.

Among some of the most crucial differences between the Indian and Public Housing Programs which are not addressed in existing legislation includes the fact that more than 60% of the units administered by I.H.A.'s have been developed under the Mutual Help Homeownership Program, which has no counterpart in Public Housing, and is only mentioned in passing in S.1987. An example of inappropriate legislation was the requirement that 95% of all public housing tenants be very low income. This, in effect, excluded Mutual Help recipients because very low income tenants could not afford the requirements of homeownership: there are no operating subsidies for home maintenance as is provided through the Low Rent Program. While it is true that the Housing Act of 1987 excluded this requirement from Indian public housing agencies, even low income tenants in the Mutual Help program cannot always assume such an additional financial burden. Another example is the recently passed request to use excess operating subsidies to provide relief to P.H.A.s for increased costs in required insurance coverages. Mutual Help homebuyers are excluded because they are not eligible for operating subsidies--but their cost of coverage has nearly tripled. H.U.D. and Congress simply forgot to develop a means of providing relief to all public housing participants, including those in the Mutual Help Program. It is well documented that there have been problems associated with the administration of the Indian housing programs. The first step necessary toward solving those problems is to simplify the Indian housing program by separating those regulations that apply specifically to Indian housing from those of Public housing. In this way, solutions in the form of amendments or new regulations would be easier to implement as they would only apply to Indian housing and not have to be "exceptions" to public housing.

The current Bill which is the topic of this Hearing (S.1987) is being followed with great hope by the Indian people and Authorities I represent. There are a few changes or clarifications we wish to be considered.

Section 202(b)(7) of the Bill includes a definition of "Indian Tribe". The Indian Self-Determination and Education Assistance Act (Public Law 93-638) was passed in 1975. In it is a widely accepted and understood definition for both "Indian" and "Indian Tribe". Please don't confuse the issue by adding another definition which in the opinion of those I represent is far from adequate and will simply add confusion. We ask that the existing definition located in Public Law 93-638 be substituted appropriately in S.1987.

Section 203(c)(3) of the Bill dictates that any amount of budget Authority that an Indian Housing Authority is able to save during construction of a project will be taken back by H.U.D. for some other use possibly somewhere else. What kind of incentive is this? A far better approach would be to allow the Authority to use anticipated savings to add additional units to the existing development program or other similar development purposes.

Section 204(e)(1)(i) of the Bill states that unless the tribe involved by resolution approved the application of the Indian housing Authority for such preliminary loan, then no loan would be provided. This is good and is currently being observed by all Indian Housing Authorities now; however, as written in this Bill, it does not allow for certain unusual situations which specifically effect Indian Housing Authorities which are established by operation of State law as opposed to Tribal ordinance. We ask that after the word "loan" in the stated section that there be added "which is above and beyond any allowances made for Indian Housing Authorities established pursuant to Section 202(b)(6)(B) of this Act."

Section 205(f) requires that priority be given to construction of three or more bedroom size units. It is the position of the Indian Housing Authorities from the five State region that I represent, that the size of the units to be provided through this Bill should be determined by the local need, which may or may not be a three or four bedroom apartment.

Section 205(h)(3)(A),(B), and (C) of the Bill set specific numbers of days for the Authority to have given "adequate notice" of the termination of a lease for various specific reasons. Applicable State laws in my Region are contradictory to the Bill's set number of days, and for that reason we ask that either the entire subsections (A),(B), and (C) be stricken from the Bill; or terminology be added which recognizes applicable State laws.

Section 209(h)(2)(C)(ii) requires that 97 per centum of an apartment complex or project be occupied in order for the Authority to obtain an acceptable performance standard. Many times this is impossible through no fault of the Housing Authority; however, as written, the Bill leaves no latitude for uncontrollable circumstances. We ask that following the end of this subsection (ii) there be added "unless specifically justified and approved by the applicable HUD Regional Indian Programs Office".

Section 209(j)(1) authorizes appropriations for fiscal year 1988, 1989, and 1990. This is very interesting in light of the fact that earlier in the same Bill it talks about a 5 year plan. It would seem to make more sense if appropriations were authorized for as long as necessary, period.

The entire Section 210 of the Bill needs to be made consistent with the new Housing Act of 1987 which was passed into law late last year. This Section relates to housing availability for lower income Indian families.

Because of Agency interpretations of the desire of Congress concerning how many homes should eventually be provided for low income Indian people, it is now necessary to add the following words to the end of Section 214, "and shall not be used to reduce any future allocations pursuant to this Act."

In conclusion, I would request your consideration of these mentioned changes and your support of S.1987. On behalf of the Chickasaw Housing Authority, the 26 Indian Housing Authorities from my five state area, and even greater the 200,000 Indian people I represent I wish to thank-you for your support of Indian Housing Programs of the past and request your continued support in the future by passing the "Indian Housing Act of 1987".

TESTIMONY OF RAYMOND WHITE TAIL FEATHER
ON BEHALF OF THE
ASSINIBOINE AND SIOUX TRIBES OF THE
FORT PECK RESERVATION
and the
FORT PECK HOUSING AUTHORITY
ON S. 1987
BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
APRIL 20, 1988

Mr. Chairman and members of the Committee, I am Raymond White Tail Feather, Chairman of the Assiniboine and Sioux Tribes of the Fort Peck Reservation in Montana. I appreciate this opportunity to testify on S. 1987, a bill to establish a separate program to provide housing assistance for Indians and Alaska Natives.

The Fort Peck Tribes strongly support establishing a firm foundation in federal law for the Indian housing program. For too long, the HUD Indian housing program has been governed by public housing statutes which were not intended to deal with the special housing needs in Indian country. S. 1987 would change this, and thus improve efforts to provide decent, safe and sanitary housing for the Indian people.

There is a bill with a similar purpose, H.R. 3927, pending in the House Committee on Banking, Finance, and Urban Affairs. This bill also claims to separate the Indian housing program from the other public housing programs, but would actually apply all of the public housing laws to the Indian housing program. Unlike S. 1987, it would not make important changes in those public housing laws in order to meet the unique problems in Indian country-- for example, it would leave intact the law setting rents at 30% of adjusted income. The Tribes and the Fort Peck Housing Authority strongly support the approach of S. 1987, and urge this Committee to stand fast on this issue in negotiations with the House.

The Fort Peck Housing Authority was established in 1968. The Authority administers 750 units of housing. 346 of these are low rent units, 70 are Turnkey III, and the remaining 334 are mutual help units. We have a waiting list that ranges from 350 to 500 people. These people are living in grossly substandard housing--this is particularly true of the elderly people on the waiting list-- or crowded into units that really have no room for them. A few of the people on the waiting list are in low rent units but want to pursue home ownership through the mutual help program.

The private housing market on the Fort Peck Reservation is virtually nonexistent. There are no private rental units at all in three of our Reservation communities. In Poplar, the seat of our tribal government and also the BIA agency, there is one small former motel that contains a few apartments. In Wolf Point, the largest community on the Reservation, there are three apartment buildings with eight to twelve units each. One is subsidized by the Farmers Home Administration. The other two, however, have rents that are well out of reach of low income people.

Rental payments. For several years, HUD has required that rental payments be set at 30% of adjusted gross income. This was taken directly from public housing requirements, and has caused considerable hardship on our Reservation.

At Fort Peck, much of the available work is seasonal. When seasonal workers are out of work, they are in "no income" status, and the only rental payment received by the Housing Authority is the $45 per month from HUD for administrative costs. When work is obtained, these families need the additional income to pay back bills and also to purchase necessary items that they cannot afford at other times of the year. However, when the rent shoots up to 30% of adjusted income, much of the income needed for these purposes is consumed by the rental payment. In effect, families are penalized for working. Some families have actually stopped accepting seasonal work because they end up worse off financially.

We are pleased to see that S. 1987 would reduce rents to 20% of adjusted income, and would also allow some flexibility to the Housing Authority in setting rents. This will be of great assistance to the working poor of our Reservation.

2. Allowing more low income families into the mutual help program. HUD requires the tenants in Indian housing to be 95% very low income and 5% low income. This mix of very low income to low income tenants may be appropriate for housing projects in large cities, but it does not work well on Indian reservations.

We have a drastic housing shortage for low income families. These families are best served by the mutual help program, which enables them to build up equity and then own their home after twenty years. However, with the current requirements on income mix of tenants, we cannot use our mutual help program in the most effective way. For this reason, we strongly support the provision of S. 1987 that would change the required mix of tenants to 75% very low income and 25% low income. This will improve utilization of the mutual help program, and at the same time permit us to free up all low rent units for very low income tenants.

3. The tri-agency agreement. Not all funds necessary to develop Indian housing come from HUD. Funds for water and sewer come from the Indian Health Service, and funds for roads and related purposes come from the BIA. For this reason, these three agencies have entered a "tri-agency agreement."

This arrangement works well where the Indian Health Service is concerned. However, the BIA just does not come up with the necessary funds. To cover the shortfall, we sometimes have to subtract funds from the development package, and sometimes the tenants themselves contribute to the cost-- which they cannot afford. The BIA occasionally comes up with needed funds, but it is like pulling teeth to get them to do so. This is particularly infuriating because under the tri-agency agreement the BIA has to sign off on our plans and specifications and otherwise involve itself in the housing development process-- but we get nothing in return.

We do not understand why this happens because the BIA receives ample funds for roads from the Federal HIghway Trust Fund. We would appreciate the Committee's help in investigating this matter in order to determine why adequate funds are not being allocated to meet the BIA's obligations under the tri-agency agreement.

4. Turnkey III units. Under the Turnkey III program, which ended in the late seventies, HUD turned houses over to the tenants on a twenty year lease with an option to buy. We still have 70 Turnkey III units on our Reservation. The tenants are required to pay 20% of their income for the unit, with $67 per month as the minimum payment. Regardless of how much they pay, only $12 per month goes to building up equity, meaning that at the end of twenty years these tenants will not come close to owning their homes. Also, only $12 per month is used for maintenance, with the result that many of the units are falling apart.

The tenants would be better off if they could be released from their obligations to HUD and own their homes outright. We have requested this "debt forgiveness" program for a long time, and in fact Congress authorized it in 1986 as part of the budget reconciliation bill. However, HUD has not implemented debt forgiveness and is undecided whether to do so in Indian country. We ask this Committee to include a provision in S. 1987 mandating HUD to implement debt forgiveness in Indian country immediately.

We would also like the authority to repair some of the Turnkey III houses and convert them into low rent units, with the current tenants being placed into the mutual help program. We ask that S. 1987 be amended to authorize conversion of Turnkey III units into low rent units.

Mr. Chairman, that concludes my testimony for today. I would be happy to answer any questions you may have.

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AKWESASNE HOUSING AUTHORITY
H
A A

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Executive Director
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TESTIMONY IN SUPPORT OF S. 1987
INDIAN HOUSING ACT OF 1987

MR. CHAIRMAN, MEMBERS OF THE SENATE SELECT COMITTEE ON INDIAN AFFAIRS, MEMBERS OF BANKING, HOUSING AND URBAN AFFAIRS AND MEMBERS OF THE STAFF, MY NAME IS HILDA GARCIA AND I AM THE CHAIRPERSON OF THE ASSOCIATION OF EASTERN INDIAN HOUSING AUTHORITIES REPRESENTING THE SIXTEEN INDIAN TRIBES ON THE EASTERN SEABOARD BELONGING TO THE UNITED SOUTH AND EASTERN TRIBES (USET) AND THE EXECUTIVE DIRECTOR OF THE AKWESASNE HOUSING AUTHORITY ON THE ST. REGIS MOHAWK RESERVATION IN NEW YORK. I AM HONORED TO BE HERE TODAY TO TESTIFY IN SUPPORT OF S. 1987, THE INDIAN HOUSING ACT OF 1987.

I WOULD LIKE TO EXPRESS OUR APPRECIATION FOR THE INDIAN HOUSING PROGRAM. THIS PROGRAM HAS ENABLED MANY OF OUR PEOPLE THE OPPORTUNITY FOR BETTER LIVING CONDITIONS, WHICH HAS RESULTED IN BETTER HEALTH, THE DESIRE FOR MORE EDUCATION AND A HOPE FOR A BRIGHTER FUTURE FOR THEIR CHILDREN.

THE MUTUAL-HELP OPPORTUNITY PROGRAM ON MOST RESERVATIONS IS THE ONLY PROGRAM THAT ENABLES AN INDIAN FAMILY TO PURCHASE A NEW HOUSE. BECAUSE OF THE TRUST LAND STATUS OF RESERVATIONS, MOST BANKS WILL NOT GIVE A LOAN TO BUILD A HOUSE, REGARDLESS OF THE PERSON'S INCOME. THIS PROGRAM HAS BEEN IN EXISTENCE SINCE 1962, UNDER THE UMBRELLA OF PUBLIC

HOUSING. TRYING TO FIT THE RESERVATIONS UNDER REGULATIONS INTENDED FOR CITIES HAS CAUSED MANY PROBLEMS FOR THE INDIAN HOUSING AUTHORITIES AND THE AREA HUD OFFICES. THE SEPARATION OF THE INDIAN HOUSING PROGRAMS AND PUBLIC HOUSING WOULD CODIFY THE HUD INDIAN HOUSING PROGRAM UNDER A SEPARATE TITLE IN THE U.S HOUSING ACT.

SECTION 201 WHICH GIVES THE INDIAN HOUSING AUTHORITIES THE MAXIMUM AMOUNT OF RESPONSIBILITIES IN THE ADMINISTRATION OF THEIR HOUSING PROGRAMS IS IMPORTANT. IN THE PAST, MANY DECISIONS WERE MADE BY PEOPLE WHO DID NOT UNDERSTAND THE UNIQUE PROBLEMS ON THE RESERVATIONS. SOME OF THESE PROBLEMS THAT NEED TO BE CONSIDERED IS THE ISOLATION OF MANY RESERVATIONS, SHORT CONSTRUCTION SEASONS, UNSUITABLE SOILS THAT REQUIRE HUGE SEPTIC SYSTEMS, HIGHER COST OF FOOD, UTILITIES, GAS, TRANSPORTATION. LACK OF HOUSING STOCK AND ALTERNATIVE HOUSING. IT WAS A SHOCK TO ME, AFTER BEING OUT OF THE HOUSING FIELD FOR ELEVEN YEARS, TO COME BACK AND TO SEE THE SAME PROBLEMS FACING THE RESERVATIONS AND COMMITTEES OF HOUSING ASSOCIATIONS MAKING THE SAME RECOMMENDATIONS. THE PASSAGE OF THIS BILL WILL BE VIEWED AS A POSITIVE STEP FOR INDIAN HOUSING.

SECTION 202 DEFINES RENTAL PAYMENTS TO BE PAID BY FAMILIES BASED UPON 20 PER CENTUM OF THE FAMILY'S MONTHLY ADJUSTED INCOME SEEMS MORE FAIR, THEN THE 30 PER CENT THAT IS NOW REQUIRED UNDER THE PROGRAM. THE DEFINITIONS FOR LOWER

INCOME AND VERY LOW INCOME IS ANOTHER PROBLEM FACING THE INDIAN HOUSING AUTHORITIES. AS MENTIONED, THIS IS THE ONLY PROGRAM AVAILABLE FOR THE INDIAN FAMILY TO BUY A HOUSE. SINCE THERE IS AN INCOME LIMIT, SOME OF THE PEOPLE CAN NOT QUALIFY FOR A HOUSE BECAUSE THEY HAVE GOOD JOBS. THEY EITHER CONTINUE TO LIVE IN SUBSTANDARD HOUSING OR QUIT THEIR JOBS IN ORDER TO QUALIFY FOR A HOUSE, WHICH DEFEATS THE PURPOSE OF SELF DETERMINATION THAT THE INDIANS ARE ENCOURAGED TO DO BY THE GOVERNMENT.

THERE IS SOME CONCERN FROM TRIBES OVER THE WORDING UNDER SECTION 205 (E). THE BILL COPIES, ALMOST WORD FOR WORD, THE SECTION OF CURENT HUD PUBLIC HOUSING LAW THAT REQUIRES EVERY CONTRACT FOR CONTRIBUTIONS WITH HUD TO CONTAIN A PROVISION THAT COULD LEAD TO A LOSS OF TRUST LAND IF AN INDIAN HOUSING AUTHORITY (IHA) SUBSTANTIALLY DEFAULTS IN ITS AGREEMENT WITH HUD. IF THERE IS AN IHA DEFAULT, THE HUD SECRETARY COULD REQUIRE THE IHA TO "CONVEY TITLE" TO HUD. HUD WOULD HOLD TITLE UNTIL ALL DEFAULTS ARE CURED, AND THEN RECONVEY TITLE TO THE IHA "OR TO ITS SUCCESSOR". THE IHA PROPERTIES ARE OFTEN BUILT ON TRUST LAND LEASED FOR 25 YEARS (WITH AUTOMATIC EXTENSION OF 25 YEARS). WE WOULD RECOMMEND THAT THE COMMITTEE DELETE SECTION 205 (E) AND REPLACE IT WITH A PROVISION THAT GIVES HUD STRONG POWER TO POSSESS AND MANGE AN IHA HOUSING PROJECT IN A DEFAULT SITUATION WITHOUT IMPERILING TITLE TO THE TRUST LAND UPON WHICH THE HOUSING RESTS.

WE AGREE WITH SECTION 214 WHICH PROVIDES FOR THE RECAPTURE OF BUDGET AUTHORITY AVAILABLE FOR REUSE TO BE AVAILABLE ONLY FOR THE INDIAN HOUSING AUTHORITY, THAT IS CAPABLE OF UNDERTAKING THE CONSTRUCTION OF ADDITIONAL UNITS.

IN CLOSING, I WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY I HAD TO PRESENT THESE FACTS THAT ARE SO IMPORTANT TO THE INDIAN HOUSING AUTHORITIES. I ALSO WANT YOU TO KNOW THAT OUR HOUSING AUTHORITY ON THE ST. REGIS MOHAWK RESERVATION WHICH WAS ESTABLISHED IN THE SUMMER OF 1985, AFTER A YEAR OF MANAGEMENT, HAS NO DELINQUENT PAYMENTS AND THE HOUSES AND YARDS ARE WELL-MAINTAINED. YOU ARE WELCOME TO VISIT OUR RESERVATION ANYTIME TO SEE THE BEAUTIFUL HOMES THAT HAVE BEEN BUILT THROUGH THE MUTUAL-HELP INDIAN HOUSING PROGRAM. THANK YOU.

HAC

HAROLD O. WILSON
Executive Director

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TESTIMONY ON S. 1987

"The Indian Housing Act of 1987"

By

Harold O. Wilson
Executive Director

Housing Assistance Council, Inc.

Before the Select Committee on Indian Affairs

United States Senate

April 20, 1988

Mr. Chairman and distinguished members of the committee, I am Harold O. Wilson, Executive Director of the Housing Assistance Council (HAC). HAC is a national nonprofit organization concerned exclusively with housing problems of the rural poor. That population includes Native Americans. We are very pleased to be invited to present our views on S. 1987, a bill designed to improve the HUD Indian housing program.

I wish to express HAC's strong support for such a housing bill. It is time to create a separate and distinct entity within the HUD structure, specifically geared to serve the housing needs of reservation-based Indian families. Under the present structure, there has been little opportunity to address needed individual program changes, add new program components, or effect necessary technical amendments. As an adjunct to the Office of Public Housing, the difficulties of adapting an urban, multifamily program to the needs of a special, rural population have long been evident. This bill provides an opportunity to change that process.

My testimony is organized as follows:

I. Overview

II. Brief History of Indian Housing

III. Analysis and Commentary

IV. Recommendations

I. Overview

The Housing Assistance Council is deeply concerned about the plight of low- and very low-income reservation families. Native Americans continue to experience the highest rate of substandard housing in the United States.

Census data gathered in 1980 shows a population of approximately 1.423 million American Indians and Alaska Natives. More than one-third live on reservations, trust lands or in Alaska Native Villages. Nationally, the percentage of the population living in substandard housing is 6.4 percent. For Native Americans, that figure is 23.3 percent. On the Navajo Reservation, 79 percent live in substandard housing. On Pine Ridge, the figure is 59.5 percent.

According to statistics provided by the Bureau of Indian Affairs (BIA), during fiscal year 1987 some 92,970 American Indian and Alaska Native families living on reservations or trust land needed either new or substantially rehabilitated homes. In 1970, that figure was 63,000. At the same time, the median age (20-25 years) and rate of family formation on reservations has increased markedly.

Since 1971, HAC has sought to provide housing assistance to Native American communities. During these years, we have watched as different administrations examined and reexamined the programs and agencies that attempt to provide adequate housing to Indian families. We have seen efforts to place all Indian housing activities under the jurisdiction of HUD or under the BIA, or, at times, nowhere at all. There have been years when several thousand new units have been funded and years when there were attempts to zero-fund the program.

Throughout these considerations, one thing has not changed: there are thousands of Indian families living in deplorable conditions on the lands which we did not take from them. Visitors to some reservations often comment that comparable housing conditions exist only in Third World nations.

A variety of programs is now available to most Americans at several economic levels. But for American Indians and Alaska Natives, home mortgages are not available on reasonable terms, rental units cannot be found, and assistance to the lowest income families has been inadequate to deal with increasing need.

In 1937, and again in 1949, and every few years since, including in 1987, legislation has been passed reaffirming the principle "that decent and affordable shelter is a basic necessity", and that the general welfare of the nation requires us to remedy our housing problems. For Indian peoples, those remedies are too slow in coming.

It is time to begin the process of making those promises a reality. And it may be that we are too late. Homelessness has taken hold in this country. In urban areas, the visibility of the homeless poor makes it a subject discussed frequently in the media. As a result, some programs are being developed to address the needs. But in rural areas, and in Indian Country, it is ignored. Families staying temporarily with friends or relatives, and those doubled and tripled up in small, dilapidated units, those living in chicken coops and in cars, are no less homeless than people sleeping in bus stations. Yet we fail to recognize the root causes of both rural and urban homelessness and if we provide anything, it is a temporary shelter which treats the consequences, not the causes, of the problem.

Both rural and urban, Indian and non-Indian, homeless people are the proof that we have done too little - and done it too late. Social programs must be increased to meet escalating needs, because the crisis has already begun. We must work hard to reverse the neglect of the past and to assist those who need our help. This bill is a part of that process.

II. Brief History of Indian Housing

Although federal housing legislation in 1937 and 1949 recognized the need for decent, safe and sanitary shelter for all

Americans, the needs of Indians were ignored until the early 1960s. Most state governments refused to include Indian reservations in their assisted housing programs, and the federal government declined to provide aid directly.

In 1961, after an Interior Department task force reported on the status of federal-Indian affairs, BIA officials began to prod the Public Housing Administration (PHA), one of the predecessor agencies which would become part of HUD in 1965, to begin serving reservation-based Indian families. Not surprisingly, the task force report pointed out the fundamental problems which concern us today: the geographic and cultural diversity of tribes; the remote, isolated location of most reservations; the lack of stable economies, high poverty rates, and high unemployment; the federally protected status of Indian lands, which restricts their alienation or encumbrance; and high development costs. It was suggested that once these problems were resolved, the utilization of existing federal loan programs would fill the gap. Some 27 years later, these problems are no closer to resolution.

After the report was issued, PHA determined that Indian tribes were eligible to participate in low-rent housing programs, once Indian housing authorities (IHAs) were established pursuant to either tribal or state law. In 1962, a mutual-help homeownership demonstration program was begun, with coordinated assistance from both the BIA and PHA. This early coordination would later evolve into the BIA-HUD-IHS tripartite agreement now in effect. Early evaluations by PHA concluded that a mutual- or self-help program would be more cost-effective than conventional low-rent projects, and would at the same time satisfy the strong cultural preference for single-family homeownership. Low-rent and mutual-help projects were begun on Pine Ridge and the San Carlos Apache Reservation. PHA attempted to modify its urban, multifamily models rather than devise a new, rural methodology to deliver housing services. Some of those perceptions and mistakes survive today and would be addressed by the bill.

Early mutual-help housing development used a standard house plan and required a labor contribution by participants. Problems occurred and this method was eventually dropped. The committee may wish to consult with those involved in the early program to determine the reasons these projects failed. We would be pleased to offer our assistance in identifying HUD and BIA officials who were a part of that program.

As development continued into the 1970s, the tri-agency agreements became more of an issue. Early commentators cite the lack of clearly defined areas of responsibility for each agency as a primary problem in the initial agreement.

In 1966, another BIA housing study found nearly 65 percent of existing housing substandard, 30 percent unfit for human habitation, and not more than five percent able to meet Federal Housing Administration low-income standards.

Technical and financial support to IHAs increased into the 1970s, but did not keep pace with development activities. That factor, combined with rampant inflation throughout the nation, brought charges that development costs were skyrocketing beyond control. Seen in retrospect, these accusations are not accurate. Program reservations in early years often nearly doubled from one year to the next (e.g., FY'67: 811; FY'68: 1,5il), and technical assistance and program support efforts did not keep pace with the rapid increases.

At the same time, HUD still viewed the Indian program as an afterthought in relation to its public housing programs. For example, although it was initiated in 1968, IHAs were not found eligible to participate in the HUD modernization program until 1979.

A Memorandum of Understanding in 1969 among the three agencies (HUD, BIA and IHS) established housing production goals of 8,000 units per year from FY'70 through FY'74. Congress complied with increased allocations. Although the goals were not achieved, the commitment marks a milestone in acknowledging and understanding the depth of need. In 1970, the BIA counted 63,000 Indian families in need of either new or substantially rehabilitated housing. Today, that number is nearly 93,000.

Despite funding levels of 6,000 units per year in FY'75 and '76, needs continued to escalate. And the haste to develop without adequate technical support began to backfire. Field hearings revealed a lack of definitive, published program regulations, the reluctance of other federal agencies and lenders to participate in on-reservation housing programs, problems with inter-agency coordination, Davis-Bacon wage rate problems, and other complex issues not easily resolved.

Offices of Indian Programs (OIPs) were established in some HUD regions, but they were understaffed and lacked a unified policy or direction. As a result, the offices were often ineffective. In 1976, a central Office of Indian Policy was established, but not until 1978 was a permanent HUD Office of Indian Housing administratively created in Washington, D.C. Comprehensive Indian housing regulations were promulgated in 1976 and refined in 1979, but there does not exist today any formal statutory authority for the program.

Management and cost containment problems intensified during the mid to late 1970s, as an attempt was made to meet the need with more units. As a new administration took office in 1981, it was simple to point to these problems and blame IHAs for the lack of capacity or capability to effectively manage. In actuality, the program was experiencing the "growing pains" typical of adolescence.

With this backdrop, a 1981 Interagency Task Force on Indian Housing cited as problems a lack of administrative infrastructure, design and construction deficiencies, and poor cost containment measures. The proferred solution was a move toward privatization of development activities. Discussions of these conclusions evolved into a series of Indian housing bills which contained, among other things, provisions requiring the pledging of trust assets in the event of loan default. Tribes were rightfully incensed at these proposals.

Later, as administrative management and cost containment efforts were focused on the program, both IHAs and the HUD program began to mature. The combination of these factors, along with a relatively static development pipeline, has produced significant improvements throughout the program. Computerization of payment programs and other technical efforts are beginning to help.

No single element can be isolated as the root cause of the "problems" with Indian housing. However, coordinated development, more new units, effective management, and efficient program administration will greatly enhance the potential for success.

IHAs are ready for more units and greater challenges. This bill and increased appropriations can provide them.

III. Analysis and Commentary

In general, the bill effectively accomplishes the separation process. There are, however, several sections which should be revised or expanded. The following analysis and commentary contains our views on how adjustments might be made to those sections.

A. Introduction

Before proceeding with an analysis of the bill, several general comments are necessary. First, we think it advisable to create a new, separate section in the bill for the Mutual Help Homeownership Opportunity Program (MHO). Nearly two-thirds of the existing HUD Indian housing program consists of MHO. Such a consolidation would clarify its distinctiveness as a special homeownership program for Indian families, and obviate the need to exempt or specifically amend MHO throughout Title II of the bill. We further believe that it is important to statutorily authorize MHO, since it is such a major component of the HUD program. Added clarity would then result whenever either MHO or the low-rent program is addressed. Future amendments to either program could also be accomplished more easily.

We would further recommend the inclusion of several provisions which are contained in the most recent revision of H.R. 3927, the House version of this legislation. There is an exception aimed at assisting non-lower income families under MHO, but only if: "The Indian housing authority demonstrates to the satisfaction of the Secretary that there is a need for housing that cannot reasonably be met without such assistance." Under the exemption, not more than 10% of a project, or 5 units, whichever is higher, could be reserved for these Indian families. Given the lack of private market housing on reservations, we think this is a modest and reasonable proposal.

We also believe that the provision in H.R. 3927 authorizing a mutual self-help component similar to the Farmers Home Administration's Section 523 program is a good idea. However, HUD must commit sufficient resources for technical and supervisory assistance to make the program viable.

Another provision we suggest adding is one creating flexible property standards, established by regulation, allowing for the use of different designs and materials. It should explicitly state that culturally appropriate traditional designs and materials are acceptable. The standards should also provide for the inclusion of cost-effective energy conservation standards.

Secondly, a provision should be added stating that, from the date of enactment of this act, no provisions of title I of the U.S. Housing Act of 1937, or of any other law specifically modifying the public housing program, shall apply to any public housing developed or operated pursuant to a contract between the Secretary of HUD and an IHA, unless the provision explicitly provides for its applicability. This would help to eliminate the problem of urban, multifamily-oriented laws and regulations being thrust upon the rural, single-family HUD Indian housing program. The bill as drafted carefully and specifically selects the relevant provisions from existing law and places them in the new title II.

Third, there should be time limits placed on HUD for the promulgation of final regulations implementing the various provisions of the new act. Meaningful consultation with tribes and IHAs must be included as part of the regulatory process.

Finally, we suggest that the recently-passed Housing and Community Development Act of 1987, Pub.L. No. 100-242, 101 Stat. 1815 (Feb. 5, 1988) be reviewed for its relevant provisions. These sections could then be added, as appropriate, to S. 1987. A provision which immediately comes to mind is Section 115, which prevents HUD from denying new units to an IHA based solely on tenant accounts receivable.

B. Analysis of Selected Sections

1.) Section 202(b)(3): The definition of "elderly" should be changed, with a reduction to perhaps 60 years of age, to take into account the shorter life expectancy of Indian people.

Precedence for this exists in Title 6 the "Indian" section of the Older Americans Act. Either this provision, or a preference for "near elderly", would help.

2.) Section 205(e): This provision requires the IHA to either deliver possession or convey title to HUD, if a project is in substantial default. The HUD Secretary may choose the option. When trust land is involved, the Secretary of the Interior holds legal title to the land. As trustee, it would appear to be unnecessary for the Secretary of the Interior to transfer title to the Secretary of HUD. The ramifications of such a procedure are unclear at best.

3.) Section 205(g): The IHA is required under this section to establish and implement an administrative grievance procedure with fairly rigorous hearing and appeals requirements. We believe that the degree of difficulty inherent in such a procedure may be beyond the financial and administrative capacity of small IHAs. This is a process geared toward large, urban PHAs. A more informal approach, adaptable to reservation situations, may be preferable. Permitting more discretion to the IHA in implementing such a procedure is advisable. IHAs could, at their option, either adopt the suggested procedure or establish another one of their choosing.

4.) Section 210: The Housing and Community Development Act of 1987 maintained a 95/5, very low to low-income ratio mix for public housing residents, but exempted portions of the Indian housing program from these restrictions. Given the extreme poverty and high unemployment rates on reservations, we believe these distinctions have little relevance on Indian reservations. We suggest allowing IHAs the discretion to set the income-mix ratio, after consultation with HUD, for their projects.

5.) The following are a number of technical corrections which the committee may find helpful in completing the bill:

a) Section 202.(a)(3): on page 3, line 19, "paragraph (1)" should read, "paragraph (A)".

b) Section 202.(b)(6): on page 8, line 19, the word "or" should read "of".

c) Section 203.(b): on page 12, line 1, add the word "an", before "Indian".

d) Section 204.(c)(5): on page 17, line 4, change "agency" to read "authority".

e) Section 204.(f): on page 19, line 7, change the letter "H" to the lower case.

f) After Section 214: on page 55, line 3, change the word "agency" to "authority".

IV. RECOMMENDATIONS

This section discusses a number of specific and general program and policy recommendations. They do not repeat the recommendations found in Section III of this testimony.

1. Clarifying their continuing eligibility for services under the new act may be necessary for Alaska Natives, Oklahoma tribes, California Indians, and certain non-federally recognized tribes.

Because of a complex set of factors, including the land tenure in Oklahoma and Alaska, requirements to establish IHAs under state laws in certain instances, and a variety of other factors, careful drafting of both the new law and accompanying committee report language is necessary so as not to inadvertently exclude these groups from the program.

2. Indian set-asides, program outreach and statutory clarification of Indian eligibility for FmHA and other federal housing programs must occur.

Reservation-based Indians find it either difficult or impossible to gain access to the programs available to other rural Americans. HUD and VA loan guarantees, the FmHA programs, and other federally-funded housing development programs do not seek or encourage Indian participation. Despite regulatory clarifications, memoranda of agreement or understanding, and other attempts to include Indians, the situation has not improved. Overhauling the programs to specifically include Indians in a manner which facilitates rather than discourages participation is necessary.

3. An intensive, fully-funded development program must begin.

Since 1970, the number of Indian families in need of new or substantially rehabilitated homes has increased from 63,000 to nearly 93,000 and no significant private sector housing development has occurred on Indian reservations. Over the past 7 years HUD has built, on average, 2,300 units each year. This does not keep pace with the need. At minimum, 6,000-8,000 units per year must be developed until the need is met. Corresponding technical assistance and program support must be included as part of the effort. On-reservation populations are increasing at a higher rate than the non-Indian population, and Indian families are generally younger and larger than those of the majority population. Unless a concerted federal effort is made to avert this crisis, health conditions and the overall quality of life on Indian reservations will continue to deteriorate.

4. Infrastructure and site development problems on Indian reservations must be addressed and remedied.

Site development problems exist on reservations to a greater degree than in other assisted housing programs. Infrastructure such as roads, water and sewer facilities, and utilities connections are particularly difficult to accomplish in Indian Country. Special circumstances require innovative ideas. Funding for demonstration projects and creative attempts to provide solutions is required.

5. Reductions in tenant contributions must be considered because of the overcrowding and deteriorated condition of existing Indian housing units.

At present, HUD is statutorily precluded from allowing IHAs to charge less than 30% of a tenant's income as rent. Some Indian families experience such severe overcrowding and other negative housing conditions that the amounts charged exceed the fair market value of the units. A waiver or reduction of the 30% rule to take into consideration the general condition of the housing is required. Discretion on the part of the IHA, with HUD approval, to charge a fair market rent would help to solve the problem until adequate housing is provided. Although the bill addresses this issue in the MHO Program, rental costs must also be reduced at the discretion of the IHA, with temporary HUD subsidies to make up the difference. The rent ceiling provision in Pub.L. No. 100-242 does not completely resolve this problem.

6. New and innovative funding mechanisms should be examined to encourage housing development and investment on reservations.

A federally-funded Indian Development Finance Corporation, such as that currently before the Congress (S.721 and H.R. 4248), should be created to provide investment opportunities and seed money which will leverage investor funds and eventually create new housing opportunities on reservations. Funding Indian-owned entities and joint ventures will provide the impetus for the private sector to begin investing in reservation-based housing development. Both investor incentives and tribal control will result over time. Use of public activity bond issues under the aegis of the Tribal Governmental Tax Status Act of 1982 (Pub.L. No. 97-473, 96 Stat. 2607), despite its restrictions, may prove possible. However, amendment of the act may be necessary. Using private purpose, public activity bonds may also prove beneficial, as might the use of 501(c)(3) bonds, direct purchase agreements with FNMA and FHLMC, and other cost-saving measures. Exploration should begin on developing a national Indian housing finance agency, based on existing state HFA models. Finally, the Indian Housing Loan Guarantee Fund as contained in Title III of S. 856, the Indian Housing Act of 1983, should be revisited for ideas. Any attachment or other compromise of trust land or other assets should not be a part of any proposal.

7. Contracting with tribes under Pub.L. No. 93-638, adherence to Indian Preference regulations, and use of local Indian contractors must be encouraged.

Only by implementing true Indian self-determination and the government-to-government relationship can these programs work.

8. Preservation of the BIA Housing Improvement Program, and affirmative acknowledgement of continued Indian eligibility for other federal housing programs is necessary.

Complaints of the lack of Indian participation in other assisted housing programs are well-founded. An often repeated refrain is that Indians have their own housing programs and they don't need others. As we have seen, that is not the case. Lack of private sector development and the minimal number of units completed under the HUD program makes participation in other programs mandatory. The tendency to exclude Indians from these programs as the improved, separate HUD Indian housing program evolves must be avoided. Concurrently, the BIA HIP must be maintained as the primary source of housing rehabilitation on the reservation. Funding increases are also needed in HIP. The FY'88 and FY'89 BIA Budget Justifications noted that HIP funding in FY'88 and FY'89 could meet only four percent of existing need.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you may have. Thank you again for the opportunity to present our views.

TESTIMONY OF WILFRED K. COLEGROVE
CHAIRMAN
HOOPA VALLEY TRIBE OF CALIFORNIA

IN SUPPORT OF
S. 1987 -- THE INDIAN HOUSING ACT OF 1987

BEFORE THE
SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

APRIL 20, 1988

I. INTRODUCTION

Mr. Chairman and members of the Select Committee, I am pleased to have been given the opportunity to present testimony on behalf of the Hoopa Valley Tribe of California. Our testimony will go into some detail about long-range improvements we hope to help you fashion in the filed of Indian housing. However, we are also here today to indicate our strong support for the separation of the Indian housing program within HUD which is the centerpiece of S.1987, the bill before this Committee.

II. IDENTIFICATION OF PROBLEMS

In the 1960's, the dream of providing safe, sanitary and decent housing was offered to the Indian people. Our dream became possible when Congress amended the U.S. Housing act of 1937 to include Indian people by establishing a special section within HUD to deal with the unique problems of Indians, problems which arise because of the special relationship between Indian Tribal and the United States governments and the places--primarily reservations in remote America-

-where Indians live. The amendments promulgated in the sixty's had the ambitious goal of solving the so called "Indian Housing Problem" within 10 years, by targeting a specified number of units of public housing for Indian people.

Despite this ambitious program and the belief that the Indian Housing program could be resolved in 10 years, we find, 25 years later, that by the governments own calculations, more than 40 percent of all Indians live in substandard housing. According to a 1985 study by the Hoopa Valley Tribe and the Bureau of Indian Affairs, more than 42 percent of the members of my tribe live in homes that fall below the minimum government standards for habitability. Housing is so scarce that 34 percent of all housing units in Hoopa are mobile homes. Most families on my reservation live in houses they constructed themselves from scraps of lumber they collected from the local sawmills which were at one time located on my Reservation. As to be expected, in the self-built houses, there are the usual problems with plumbing, lack of insulation, inadequate heating, problems with the foundations and dangerous electrical wiring.

The initial plans of the government to address the Indian housing problem through the various amendments to the public housing legislation were well intentioned. However, simply grafting Indian housing onto the public housing program aimed at the needs of urban poor people has not worked. The regulations governing the administration of the housing programs were not amended to take into consideration certain characteristics peculiar to Indian tribes and reservations.

One of the problems which has aroused the most concern in Indian country is the high cost of constructing public housing in Indian lands. It has been estimated by Dr. James Baugh, the General Deputy Assistant Secretary for Public and Indian Housing that the average cost of constructing an Indian HUD house (excluding off-site water and sewer costs) was $56,000 in 1986. While the development cost may be the national average, the fact that prototype costs are based on statewide averages is the primary problem in Indian country. On my Reservation, our prototype costs are based on the average for the State of California where typical housing costs are significantly higher than anywhere in the nation excluding Alaska. In fact in 1985, the last year any new units were constructed on the Hoopa Valley Indian Reservation, the prototype cost was $79,000 per unit. This high cost is attributed to:

1. The policy of HUD to adhere to national minimum property standards rather than the Hoopa Tribe's Uniform Building Code Ordinance.

2. The method of financing HUD constructed homes through which the government sells 30 year bonds, thereby incurring an unnecessary long-term interest expense.

3. **The consistent failure of the Bureau of Indian Affairs, Indian Health Service and HUD to enter into cooperative agreements whereby the former agencies, would coordinate their housing construction, inspection and legal assistance programs with those of HUD. A good example of this situation occurred in 1984 when 40 mutual aid units were being constructed on my Reservation.** The Bureau of Indian Affairs hired a surveying company to perform road surveys, the local utility company hired a surveyor to perform transmission line rights-of-way, IHS hired a surveyor to perform sanitation and water easements and HUD approved the hiring of a surveyor to perform the site plans. Unknowingly, all four parties hired the same firm to perform essentially the same form of service. The failure of these agencies to cooperate or even coordinate has cost the Federal Government thousands of dollars, unnecessarily in triplicate program administration on my Reservation.

4. The Housing Act's requirement that HUD contractors pay Davis-Bacon wage rates, which add an estimated 10 to 15 percent to the cost of each new HUD house.

The second problem which is of great concern throughout Indian country and which has contributed to the failure of the Indian housing program is the excessively high rate of tenants which are delinquent in their payments. With eligibility to occupy HUD constructed housing being based upon a low income level, Indians have no difficulty in qualifying for HUD housing assistance.

Since HUD housing payments are based upon a sliding scale that is tied to the occupants income, a person who initially meets the eligibility criteria and later obtains a job is penalized for bettering his/her family condition.

Plus, much of our economy is a seasonal one, so that family income typically fluctuates wildly during the year, making income calculations for monthly rent purposes particularly complex. Added to this is the cash flow and budgeting difficulty of a low-income with wide income variations from month to month having to pay a fixed rental rate each month based on an average annual income.

Most Indian housing authorities are sufficiently and politically attuned to realize that, while HUD allows them the option of evicting or increasing the payment of a wage earning occupant, the latter is the only viable choice they have. Faced with a much higher payment than they originally anticipated and which they cannot afford, the now working occupants become and stay delinquent in their payments. As the rates of delinquency skyrocket, HUD blames the housing authorities; the housing authorities blame the Tribal governments; and the Tribal governments blame HUD and the housing authorities.

III. SPECIFIC COMMENTS ON S.1987 -- THE SEPARATION BILL

A. SEPARATION IS IMPERATIVE

S.1987 would establish a special HUD Indian public housing program separate from HUD's regular, urban-oriented public housing programs. It promises to begin the process of adapting HUD Indian programs to reservation realities.

Separation of the Indian program is a vital step forward. It must be accomplished soon and we urge you to push this bill forward as quickly as possible. The current program is a mess and separation and consolidation of the Indian program is imperative. We laud the Committee for making separation the centerpiece of S.1987 and hope to work with you closely on future reforms.

B. RECAPTURE PROVISION IS A NEEDED IMPROVEMENT

S.1987 requires HUD to target all recaptured HUD Indian housing funding to Indian reservations. In recent past, as funding for new housing units has dried up, Indian housing authorities have been getting fewer and fewer new unit allocations. Because of typically unworkable way the HUD Indian housing programs operate on reservations, in what is really a management by waiver process, delays often dog the development and construction of new HUD Indian housing. These delays often arise when the HUD bureaucracy fails to move quickly on approvals necessary to progress of the development of the ground. These delays reach crisis proportions if the money is not obligated within three years because then HUD can recapture it and spend it elsewhere. We at Hoopa have some personal experience with this -- Hud threatened to recapture more than three dozen units at Hoopa because of HUD delays several years ago. Section 214 of S.1987 requires HUD to spend recaptured Indian housing funds only on Indian reservations, so that funding allocated to address critical Indian housing needs stays within Indian communities. We commend the Committee for this provision and ask that you ensure that it become a statutory requirement and thus immune from change by HUD.

C. SPECIFIC CHANGES TO S. 1987 MUST BE MADE

1. Require Tribal Government Consent, Not Merely Consultation.

In S. 1987's provisions outlining the relationships between the Indian Housing Authorities (IHAs) and HUD, several sections require only consultation with the affected Indian Tribe. While S. 1987 retains the Tribe's power to appoint IHA commissioners who oversee the IHA, there are several important junctures in the development and administration of Indian housing by the IHA which would benefit from the integral involvement of the Tribe were tribal consent to a proposed IHA action be statutorily required. We would note to the Committee that an IHA's relationship with its Tribe must be politically strong and healthy if the IHA is to make any headway in reducing tenant accounts receivables. This arduous task is politically difficult, and possible only when the IHA works hand-in-hand with its Tribal government.

In §204(c)(5), S. 1987 requires that an IHA only consult with its Tribe before it certifies to HUD that it would be more effective to use development funds to acquire or rehabilitate existing property for Indian housing. To ensure ongoing accountability to the Tribe and to foster a cooperative spirit at the reservation level, §204(c)(5) should be amended to require tribal consent, so that it reads in pertinent part: ". . . if the Indian housing agency, with the express consent of the tribe, certifies that such assistance would be more effectively used . . ."

In §209(d)(5), S. 1987 requires that an IHA's comprehensive plan include "a statement from the Indian tribal official" that the Tribe has approved the plan. While this obligates the IHA to secure the Tribe's consent to the comprehensive plan, we would suggest adoption of an amendment that would replace the phrase "a statement from the Indian tribal official . . ." with the following phrase: "a duly enacted resolution of the involved Tribe's governing body stating . . .". This substitute phrase would conform to the standard requirement of a resolution from the governing body on a reservation and remove the imprecision of the reference to "the Indian tribal official."

In §209(f)(2)(D), S. 1987 requires that an IHA submit with its one-year work plan a certification "from the Indian tribal official" that the Tribe has approved the plan. For the same reasons given in the preceding paragraph referencing §209(d)(5), we suggest adoption of an amendment that would replace the phrase "from the Indian tribal official . . ." with the following phrase: "by the involved Tribe, in the form of a duly enacted resolution of the involved Tribe's governing body stating . . .".

In §209(h)(1), S. 1987 requires an IHA to certify to HUD that it has made its annual performance and evaluation report available for review and comment by the "Indian government" and other parties. To encourage an IHA to nurture a close working relationship with the Tribe, §209(h)(1) should be amended to require tribal consent, by deleting the last sentence and replacing it with the following: "The agency shall certify that it made the report available for review and comment by tenants, the public, and other interested parties before its submission to the Secretary. The agency's plan shall additionally contain a duly enacted resolution of the involved Tribe's governing body stating that it has had an opportunity to review and comment upon the performance and evaluation report and that it has approved the performance and evaluation report."

2. Ensure that Indian Trust Land Is Not Threatened by IHA Defaults.

HUD Indian housing is typically constructed on trust land leased for 25 years. S. 1987 has a provision in §205(e) identical to a section in current law permitting the HUD Secretary to require conveyance of title to HUD if an IHA substantially defaults in its agreement with HUD. Under this section, HUD holds title until the default is remedied and then reconveys title to the IHA "or to its successor." The statute does not require that the successor housing authority be one created by the Indian Tribe having jurisdiction over the trust land involved. This gives some leeway to HUD to reconvey title to a HUD project to housing authority outside of the control of the involved Tribe and could unnecessarily cloud Indian trust title to land. While title is not specifically defined to include the trust land, the original provision was not written with Indian trust land in mind, and thus implies that both the facility and the land upon which it rests are subject to seizure and conveyance by HUD. This is a critical example of how the HUD public housing program statutes and regulations simply do not fit with reservation realities. Placing this exact provision without revision or explanation within S. 1987, a specifically Indian housing bill, could permit HUD bureaucrats to issue regulations that threaten trust land.

There is a practical and simple solution to this problem. Current law now provides, as does §205(e) of S. 1987, HUD with another way to resolve a default situation -- temporary repossession of the defaulted property and redelivery of possession after the default situation is solved. Section 205(e) should be changed to remove all references to HUD's option to convey title, retaining instead HUD's option to possess and redeliver possession of the project. In the alternative, §205(e) should be accompanied by explanatory bill or report language clearly indicating that in no way shall title to Indian trust land be encumbered or affected by HUD actions under §205(e).

IV. LONG TERM RECOMMENDATIONS FOR CHANGE.

In determining public housing prototype costs, HUD must take into consideration not just the Statewide averages, but must consider relevant factors such as additional costs which are a result of remoteness, the lack of skilled labor and/or acceptable building materials.

HUD must allow Tribes the right to exercise self-government through the formulation or use of building codes that are based on local factors not those which are national or uniform based.

A more streamlined tri-agency agreement between HUD, the Bureau of Indian Affairs, and the Indian Health Service must be promulgated which will allow for better use of Federal dollars through a streamlined coordination process.

The provisions of the Davis Bacon regulations must be removed

from the Indian housing program. Tenants Accounts Receivables must be reduced from the current 30 percent level to at least 20 percent.

V. CONCLUDING REMARKS.

We believe that the separation and consolidation of the HUD Indian housing program in S. 1987 will go a long way toward remedying the many problems plaguing successful delivery and management of Indian housing. I was pleased to be able to present this testimony to you today and appreciate your attention to my remarks. If you have any questions I will try to answer them now or provide you with a more detailed response as soon as possible.

STATEMENT BY

KENNETH J. BEIRNE

ASSISTANT SECRETARY FOR POLICY DEVELOPMENT AND RESEARCH

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

BEFORE THE

SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

APRIL 20, 1988

Mr. Chairman and members of the Subcommittee; I appreciate the opportunity and am honored to represent the Department of Housing and Urban Development before this Committee.

Since the early 1960's, HUD has provided assistance in both the development and management of housing for Indian and Alaska Natives pursuant to the U.S. Housing Act of 1937, as amended. There are presently 173 Indian Housing Authorities (IHAs) managing over 61,000 units housing families in Indian and Alaska Native areas.

Each IHA administers its own housing program, which includes both homeownership and rental housing. The Mutual Help Homeownership Opportunities Program, which was codified in regulation in 1976, now constitutes about 65 percent of housing assistance in Indian areas. As authorized in the 1974 Housing and Community Development amendments, each family makes a contribution toward the cost of the dwelling in the form of land, work, cash, materials or equipment. After construction, the homebuyer occupies the house under a lease-purchase agreement and must maintain the house, pay utility and maintenance costs and make a monthly payment to the IHA consisting of an administration charge and, if the family's income permits, an equity payment. Normally, the participating family will acquire title at the end of 25 year contract term. The IHA receives limited operating subsidy from HUD to cover audits, counseling and training costs and limited modernization funds under the Comprehensive Improvement Assistance Program (CIAP).

Approximately 35 percent of the Indian housing units are rental units. As in public housing, HUD contracts with IHAs which own and manage the properties and make the units available to low-income families. Under the tenant rental program, the contract is for 30 years and rental payments are based on 30 percent of the adjusted income. HUD provides operating subsidies under the Performance Funding System (PFS) and modernization funds under CIAP.

Some IHAs also operate the Turnkey III Program which is similar to the Mutual Help program and a few IHAs operate other HUD housing programs, including the Voucher, Section 8 Existing, Section 8 New Construction and Section 8/202 Elderly programs.

In 1981 the statement was made by many Indian leaders, as well as Washington officials, that the Indian Housing Program is modeled too closely on the urban-oriented public housing concept. Since that time the Department has issued numerous policies to address the unique Indian housing situation. Let me mention just a few of these: 1. cost guidelines relying on single family standards; 2. adjustments of income limits to address the lack of alternate housing in Indian areas; 3. Indian preference in contracting, subcontracting, employment and training; 4. Conversions to the Mutual Help Program; 5. special procedures for pipeline movement and recapture/reuse; and 6. the soon-to-be published consolidated separate Indian housing regulations which will provide a complete separate regulatory framework for the Indian housing programs.

The Department has also vigorously implemented the Congressional mandate to establish separate Indian housing offices. There is a separate Office of Indian Housing in HUD Headquarters. There are currently 6 Indian field offices that are providing technical assistance as well as processing funds for housing and community development programs in Indian areas. We recently issued a comprehensive handbook for field office monitoring of IHA operations which directs our field staff to target its resources to help problem IHAs. We are currently in the final stages of implementing our new computerized Indian Housing Management Information and Retrieval System (MIRS), to provide a better capability to address IHA problems with hard data, as done in private sector management.

Let me turn to our comments on the Indian housing legislation, S 1987, which is before the Committee. This legislation proposes to incorporate all current public and Indian housing provisions of the U.S. Housing Act into a separate section for Indian housing. As we understand it, the rationale for this legislation is to address the unique issues pertaining to housing in Indian areas. We agree that there are differences between the multifamily urban public housing program and the remote single family Indian housing program. However, we wish to emphasize that separate statutory language has not been necessary to implement HUD's Indian housing program over the last 25 years.

As I have already mentioned, the Department has been able to maintain the uniqueness of the Indian housing delivery system without statutory language. We believe that separate Indian housing legislation is unnecessary.

We have specific problems with some of the policies in the bill that deviate from the current statute.

First, the bill reduces the 30% rent requirement to 20% for the Indian housing rental program. We oppose the 20% rent requirement in this bill because there are other approaches for a more flexible rent in the Indian program. For families with homeownership potential, we encourage conversion to the mutual help program where the rent payment is generally between 15% to 30% of adjusted income. Also, the Department is considering a legislative proposal for the defederalization of rents. This proposal will permit PHAs and IHAs that elect to forego future operating subsidy to waive statutory rent rules. In addition, we do not believe that Indian families in rental units should automatically have a lower rent burden than other assisted housing families.

Secondly, the bill also permits families in Indian areas to utilize a travel related deduction of $25 per family per week as an alternative to a child care deduction. For many households, this would only deepen Federal subsidy. For Mutual Help Homeownership households, this new deduction would provide an additional income deduction of up to $1,300 per year, even though many of them are already paying as little as 15% of adjusted income for homeownership payments. In addition, the recent housing bill maintains certain deductions across the board for all assisted housing programs. We oppose any further changes at this time.

Thirdly, the bill authorizes reuse of Indian housing development within the Indian housing program. As you may be aware, the majority of unworkable projects have already been removed from the pipeline. In FY 1988 we project only 100 units will be recaptured and in FY 1989 we estimate there will be no recaptured units. Therefore, a permanent reuse policy is not needed and may create difficulties in accounting for the expenditure of funds.

Finally, we object to Section 208 of the Bill, Labor Standards because it is not consistent with the Administration's proposed thresholds for application to Indian Housing projects.

This bill was introduced before the enactment of the 1987 Housing and Community Development Amendments. As you are aware, there are a considerable number of provisions in S 1987 that are inconsistent with the HCDA. These include ceiling rents, income limits changes, comprehensive modernization grants, and reauthorization of the Public Housing Loan Fund among others.

In closing, I appreciate the opportunity to testify before your committee regarding the Indian housing program. I believe this Administration has a record of significant improvements in this program, which has led to more and better housing for families in Indian areas. We have in place an administrative system successfully delivering housing in Indian areas without statutory change. For all of the reasons discussed in my testimony, we oppose S 1987.

This concludes my prepared testimony. I'd be happy to answer any questions.

PREPARED STATEMENT OF LULA AUBERTIN, CHAIRMAN, COLVILLE INDIAN HOUSING AUTHORITY

The Colville Indian Housing Authority supports S-1987. Separation of Indian Housing from Public Housing will facilitate the evolution of Indian Housing from a "step-child" of Public Housing to a program that can be fully responsive to Indian needs.

Our Housing Authority has an inventory of over 500 units with a mix of mutual help, turnkey III and rental. Our Housing Board has an aggregate experience in excess of 50 years. We support this Bill with the understanding that it will provide an environment that can evaluate input from "Indian Country" and adopt mutually beneficial changes. The current organization, Public Housing/OIP, must measure all suggestions against the possibility of compromising the existing Public Housing Program. The restructuring under this Bill will insulate the Public Housing Program from any improvements that would benefit Indian Housing.

"DECLARATION OF POLICY".

Sec. 201. This paragraph includes a statement ...It is the policy of the United States to promote the general welfare of Indian tribes by employing its funds and credit, as provided under this title, to assist the several tribes to remedy the unsafe and unsanitary housing conditions and the acute shortage of decent, safe and sanitary dwellings......

The key words "acute shortage" understate a situation that we must cope with on a day-to-day basis. In recent years we have been given a "token" allocation of houses that has been spread so very very thin. We would like to see the words "Policy of the United States" replaced with "committment of the United States".

The allocation of total houses and the eventual IHA allocation is currently done arbitrarily on a national level and competitively on a regional level. We would recommend a delivery system that is structured around actual housing needs.

Sec. 201. This paragraph includes a statement ...to vest Indian Housing Authorities the maximum amount of responsibility in the administration of their housing programs.

One of the major objectives of Tribal government and Congress is to develop self-sufficiency. We feel that it is vital that Indian Housing Authorities be given increasing local control as well as maximum amount of responsibility.

We assume that "Sec. 209. COMPREHENSIVE GRANT PROGRAM". can be employed to achieve the desired level of local self-sufficiency.

Sec. 208. "LABOR STANDARDS". This section should be studied and expanded to maximize the participation of Tribal labor forces in HUD housing projects. The current policies result in de facto exclusion of our labor and contracting people. The current policies have created a core group of non-tribal contractors that are able to assume the character of "Indian Contractor". Bidding, bonding and insuring conditions should be studied and overhauled to facilitate the intended level of participation by local work forces.

TESTIMONY

OF

BERNARD BOUSCHOR, CHAIRMAN
SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS

AND

GEORGE NOLAN, COMMISSIONER
SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS HOUSING AUTHORITY

ON BEHALF OF

SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS BOARD OF DIRECTORS

AND

SAULT STE. MARIE TRIBE OF CHIPPEWA INDIANS HOUSING AUTHORITY

ON

S. 1987

"THE INDIAN HOUSING ACT OF 1987"

BEFORE THE

UNITED STATES SENATE
SELECT COMMITTEE ON INDIAN AFFAIRS

APRIL 20, 1988

I. OPENING REMARKS.

A. Introduction

Mr. Chairman and member of this committee, I am Bernard Bouschor, Chairman of the Sault Ste. Marie Tribe of Chippewa Indians.

We are quite pleased to have this opportunity to bring before you today and testify in support of S. 1987, the Indian Housing Act of 1987.

Our testimony will be in two parts -- First, a specific focus on the immediate bill before us today, S. 1987, and second, a long-range outline of comprehensive legislative changes that absolutely must be made in order for the Indian Housing program to effectively meet the critical housing needs on Indian reservations.

Do not mistake the second part of our testimony to indicate that we want you to immediately consider and incorporate these changes into S. 1987, however. The fundamental character of the long-range changes we propose may slow, if not stall, the steady progress of S. 1987. Some of the ideas we raise for your long-range consideration have been studied to death, but would by their very nature, invite more study. Some may invite initial oppostion from your colleagues on Capitol Hill. While we are convinced that we eventually can and will win over that opposition because of the reasonableness of our proposals in the context of Indian Country, the process of explanation and persuasion is a large task that has barely begun. This political education will devour time, precious time which we simply cannot afford to waste.

We must instead get on with changes, step by step, piece by piece, and S. 1987 begins that process in a very important way-- it separates out and consolidates the U.S. Department of Housing ansd Urban Development (HUD) Indian Housing Program and gives it a statutory base. This is a critical first step. It is also politically feasible step, one necessary for the fundamental changes we have long sought.

Let there be no confusion therefore, that we are here today to strongly urge you to quickly move S. 1987 through Congress, temporarily setting aside our longer-range requests.

B. Housing Conditions and Needs.

Accross Indian Country today, 92,580 Indian families are in critical need of housing assistance, according to the Bureau of Indian Affairs' most recent Consolidation Housing Inventory. Of these families, 52,700 require new houses to be built either because they are homeless or their current shelter is in such a deteriorated, crowded condition that it cannot be rehabilitated. At HUD's current level of 2,000 new housing unit starts per year, it will be the year 2018 before today's new housing need is met! Twenty percent of Indian communities now lack basic water and sanitary sewer services.

The Indian population has increased by about twenty five percent since 1980 and the median age is between 20-25 years. When population trends are considered alongside the acute reservation housing shortage, it is clear that the survival of reservation life and tribal governments is imperiled by the housing crisis.

If more and more young Indian people can no longer find housing on the reservation, reservation populations will decrease. Tribal governments will wither without people. Tribal cultures will be decimated without people. A way of life will perish without people. Housing, like food, is a basic requirement for life. The chokehold that the paralyzed and dwindling HUD Indian housing program has on the future of tribal governments and their people is alarming.

II. SPECIFIC COMMENTS ON S. 1987

A. S. 1987 Separates the HUD Indian Housing Program from Regular Public Housing -- An Absolutely Vital and Positive Step Toward Change.

S. 1987 would separate the Indian housing program at HUD from HUD's regular, urban-oriented public housing programs. Separation is an absolutely vital, first step in the process of bringing about fundamental reforms in the HUD Indian housing program.

There are great differences between HUD's regular, urban-oriented public housing and Indian housing program requirements. These continually surface in our administration of HUD programs, but the HUD bureaucracy simply has not been responsive to our complaints nor our suggestions for change.

The inclusion of Indian housing in the legislative design for public housing has been on the basis of haphazard after-thought, not careful study. As a result, we are continually forced to administer Indian housing programs by exception or waiver. Obviously this is a highly inefficient and frustrating way to run a program.

Codification and revision of a separate Indian Housing Program would be a major advance in our efforts to simplify the program so as to improve the delivery and administration of HUD Indian housing. As HUD's own Inspector General has concluded in its audit report 86-TS-101-0018, June 19, 1986, separation of the HUD Indian Housing Program is necessary to fulfill HUD's responsibilities and to permit HUD officials to focus on the unique aspects of Indian housing and not the artificial problems created by complex and inapplicable public housing requirements.

Legislative codification of the HUD Indian Housing Program should result in all statutes relating to the Indian Housing Program being placed into one, coherent chapter of the United States Code. Although techical in nature, this would be a welcome improvement to those administrators who have tried to divide which sections of the voluminous and complex HUD public housing statutes relate to our HUD Indian Housing Program. Codification should also lead to the creation of a separate and comprehensive part of the Code of Federal Regulations containing all of the regulations relating to HUD Indian Housing programs. Coherent and consolidated regulations would permit operation of HUD Indian Housing Programs by rational design rather than the present operation by exceptions, waivers, and exemptions. Condensing materials and unnecessary paperwork will assist a great deal in the success of the program and in the retention of skilled Indian Housing Authority (IHA) staff.

Codification is the first step needed to remove the irregularities plaguing the current HUD Indian Housing Program. One perhaps trivial but revealing examples of this can be found in the fact that HUD spares no expense to bring public housing executive directors from across the nation to Washington, D.C. for an annual conference to recognize outstanding performances by directors. But IHA executive directors have been regularly excluded from consideration and participation. Yet the responsibilities of public and Indian housing authority directors are similar. Ironically, the separation of the two programs envisioned in S. 1987 is already partially in place -- where it is in the best interest of some HUD officials. Let me hasten to add that we of course would rather see the funding for such events go directly to housing Indian families.

B. S. 1987 Adapts HUD Indian Rental Formulas to Indian Economic Realities.

We are in strong support of the provision in S. 1987 which would reduce the percentage of family income to be paid for subsidized housing rent from 30% to 20%, recognizing the uniquely depressed economies on Indian reservations. Section 202 (a) (2). We also support the adjustments to family income for the "excessive travel costs" unique to may reservations. Section 202 (b) (5) (D) (ii).

For a long time, we have been trying to educate public housing policy makers about the added expenses incurred by Indian families in individual homes, in remote areas, with limited means of transportation, far from employment sources, and under the poorest economic conditions in the United Sates. These Indian Country economic realities simply do not fit within the HUD program parameters designed for urban areas, close to mass transit, adjacent to necessary services and in the proximity of available employment. Ludicrous results ensue from this ill-fitting merger of reservation life and HUD urban-oriented programs.

The unique differences of Indian Country have not been accounted for in the computation of adjusted income for Indian housing programs, resulting in Indian families paying a disproportionate share of their spendable income for housing. Depressed reservation economies result in high unemployment, or sporadic employment at best, for many families in subsidized housing. Other families' livelihood is solely dependent upon seasonal employment, virtually unheard of in the urban public housing context. The dollars retained by low-income Indian families and applied to the upkeep of their homes as a result of this revision would greatly reduce the future need for federal subsidies for maintenance and repairs.

C. S. 1987 ensures that Recaptured HUD Funds Benefit Indian Housing.

S. 1987 contains an important provision requiring HUD to retarget to Indian housing any budget authority for the construction of new Indian housing that is recaptured by HUD.

In recent years, HUD has recaptured funds allocated to IHAs because the IHAs were unable to use it within HUD's timeframes. HUD has then taken that money and reallocated it ot non-Indian housing purposes or returned it to the Treasury. Many times the delays were due not to IHA mismanagement or negligence but instead to HUD bureaucratic foot-dragging. Since frequent waivers and exceptions are the rule and are performed on a case by case basis by HUD Indian Program offices that look more and more like empty ghost towns, the failure to meet IHA development timelines is actually HUD caused. Thus HUD's efforts to recapture and divert Indian housing development funds to non-Indian projects penalize not only an innocent IHA but also all of Indian Country. In the context of the Reagan administration's continuing attempts to defund the HUD Indian Housing Program, these recapture efforts have struck a death blow to tribal efforts to maintain at least some new housing construction starts on Indian reservations. S. 1987 would guarantee that HUD recapture policies are more equitably administered.

D. S. 1987 Conforms Occupancy Formulas More Closely to Indian Reservation Realities.

S. 1987 corrects a serious problem that arose for HUD Indian programs when Congress restricted the occupancy of 95% of all subsidized housing to families, and reserves the balance for "very low-income families."

The HUD-Indian Mutual Help Homeownership Program, for which there is no counterpart in regular public housing, was inadvertently restricted by the 95% rule. Mutual help homes were diesgned for families who specifically were not in the category of very low income --- families for whom home ownership was a real possibility. Unless Section 210 of S. 1987 is enacted, the 95% rule will continue to distupt the orderly and equitable administration of the Mutual Help Programs.

E. S. 1987 Must Be Amended to Ensure That Indian Trust Land Is Not Threatened By IHA Defaults.

IHA propeties are now often built on trust land leased for 25 years (with an automatic extension of 25 years). S. 1987 contains a provision in Section 205 (e) that is identical to a provision in current law which permits the HUD Secretary to require conveyance of title to trust land to HUD if an IHA substantially defaults in its agreement with HUD. HUD would hold title until all defaults are cured, and then reconvey title to the IHA "or to its successor." Current HUD public housing law requires every contract for contributions with HUD to contain such a provision.

While HUD is obligated to reconvey title to the defaulted project back to a successor housing authority after the default problems are removed, the statute does not specifically require tha the new housing authority necessarily be on created by the tribal government body with jurisdiction over the trust land involved. In theory, this provides some latitude for HUD to reconvey title to trust land to an entity outside of the controol of the involved Tribe and could unnecessarily cloud Indian trust title. The default and title conveyance section of the old HUD law likely was not written with Indian trust land in mind. Enactment of this exact provision within S. 1987, specifically for Indian housing programs, cound permit HUD bureaucrats to issue regulations that threaten trust land.

There is a practical and simple solution to this problem. As the law now stands, and as Section 205 (e) now reads, HUD is additionally provided with another means to resolve a default situation -- temporary repossession of the defaulted property and redelivery of possession after the default situation is resolved. Thus HUD now has a sufficient and effective alternative means to resolve a default situation, which renders extraneous the title conveyance provision that threatens Indian trust land.

Section 205 (e) should be amended to delete all references to HUD's option to convey title, retaining instead HUD's option to possess and redeliver possession of the project.

III. A NEW BEGINNING IN INDIAN HOUSING -- LONG-RANGE PROPOSALS FOR REFORMING HUD INDIAN HOUSING PROGRAMS

A. Introduction.

Indian communities work hard at trying to make the HUD Indian Housing Program successful. The HUD Indian Housing program has been available to Indian families for 25 years. Our experience over these years has taught us a lot about the HUD Indian Housing Program, both good and bad. As indicated in the following, the HUD Indian Housing Program requires many changes before it will do justice to Indian families.

In the following, we will discuss a number of key factors that have directly contributed to the inability of the existing HUD Indian Housing program to function the way it was supposed to when it was first created. By airing these critiques, we do not mean to imply that the HUD Indian Housing Program is not producting houses nor that there are nothing but problems with the programs. In fact, the HUD Indian Housing Program is providing housing to families on a regular basis. And on many reservations with depresses economies, the development of a housing project is doubly good news to the local population because it also promises short-term jobs as well as shelter.

With the advantage of hindsight and our track record of experience, we are ready to propose pragmatic, necessary revisions to correct the fundamental flaws in the setup of the HUD Indian Housing Program that will eliminate previously unforeseen hardships and provide desperately need Indian housing in a much more efficient and effective manner.

B. The Ravages of Inflation on Indian Housing.

The double-digit inflation that rages throughout the 1970's and eroded the value of the dollar in the 1980's has resulted in low-income families paying a much greater share of their limited spendable inclome for shelter, thereby reducing income available for other essentials. In the 1970's, Congress passed the Brooke Amendment which based the rent of families in federally subsidized housing on their ability to pay, with a cap of 25% of adjusted income. Inflation and recession eroded the value of this formula in the 1970's. Low-income families faced increased hardship in the early 1980's when Congress increased the rental ceiling to 30% of income, cutting more deeply into the paltry family budgets otherewise required for essentials such as food, clothing, utilities, education, transportation, and house maintenance.

Old Mutual Help Program participants were among those most sharply hit by inflation, due to the fixed contractual aspects of their Homebuyer Agreements which requires a minimum monthly payment in addition to payment by Homebuyers of all costs for utilities and manitenance even though these Homebuyers were, by intent of Congress, many of the poorest families on the reservations.

Although with respect to rental tenants the Brooke Amendment cushioned the impact of inflation on rent, utiltiies, and maintenance assistance, rental families wier still required to devote more and more of their spendable income on housing.

Inflation's impact on the management of Indian Housing Authorities has been obvious and severe. It has directly contributed to reduced tenant/homebuyer maintenance, increased tenant accounts receivables (TAR's), increased designations of "financially troubled", more and more evictions or loss of units due to nonpayment by families with few if any alternatives to homelessness, and sanction from HUD for non-collections.

Ironicallly, hindsight now reveals that little if anything was gained by Congress' refusal to adjust payments for subsidized housing payments at the time when the financial adversities were peaking. Maintenance on the public housing stock homes suffered dramatically because scarce dollars were put to more immediate needs. The short-term gain has become a long-term loss, as the housing stock has seriously deteriorated. It should be noted that the deterioration came also at the less quantifiable, but even more real, expense of the families who have had to reside, day in and day out, in degenerating housing conditions.

Congress needs to wrestle with this problem specifically as it applies on Indian reservations. Studies should be made to determine the actual impact of inflation and other contributing factors on the rent-payments of subsidized housing participants, including those families in the Old Mutual Help program. Then, tailored to the economy of Indian Country, appropriate adjustments should be made to the rent payment formulas and percentages based upon Indian families' real, not assumed, abilities to pay.

Congress must also recognize the disparities between the theory and the reality of the Old Mutual Help program, brought on by such things as inflation, and make provision for assistance when incomes fall below perdetermined levels. If a contributions procedure based upon a family's ability to pay were used, it could mean the difference between the retention and loss of a home during a temporary, but critical time in the family's life. Such emergency assistance need not be in dollars, but could take the form of a temporary waiver of payments, conversion to rental status for a temporary period, or similar measures.

Congress should make provision for a forbearance clause in the mutual help programs. The lack of sustained and year-round employment on reservations, uncontrolled inflation, deaths of spouses, and other severe hardships, require a provision for forbearance. Forbearance would also provide a system whereby housing authorities could account for uncontrolled events without being labeled "financially troubled" because they lack any option other than the harshest imaginable one in such circumstances of personal hardship -- eviction. Forbearance provisions make sound business sense. Nearly all home purchase agreements in the private sector, including mortgages for higher-income homebuyers, include forbearance provisions. yet our government's own program fails to do so, even though it is purportedly designed to assist homebuyers with mercurial incomes in areas of the highest unemployment.

C. Ill-Suited Rent and Payment Formulas.

Since the issuance of the Interim Indian Housing Handbook, HUD 7440.1, in March of 1976, the management of Indian Housing Authorities has been measured by how effective are their rent collections efforts. This measure was imposed without any study being make to learn if rent payment determinations for subsidized Indian housing place an unequal burden of payment on Indian families as compared to non-Indian families.

Unemployment, especially under the Old Mutual Help Program where fixed commitments are required, can jeopardize a family's home after years of diligent sacrifice right at a time when family critically needs assistance rather than another catastrophic hardship like becoming homeless. The loss of employment is traumatic enough, but to be followed by the threatened loss of one's home due to a temporary lack of income is not how the mutual help programs were intended to work. Yet this is a frequent result of the application of typically ill-fitting public housing program requirements on Indian reservations.

Congress must seriously consider removing Indian Housing Authorities from the requirements of the Brooke Amendment and allowing each IHA to develop payment schedules appropriate for their economic situation and in keeping with the original congressional intent to provide affordable housing to low-income families. Fixed rent payments should be permitted for those who desire to use them, with care exercised to ensure that they do not have the effect of pricing low income families out of affordable housing. Fixed rent payment schedules can encourage personal incentive to increase family income levels and improve living standards. It would also require some payment from all participants. the lack of payments by some participants now are a constant source of irritation at the reservation level. The annual and often meaningless ritual of family income recertification cound thereby be eliminated, saving the IHA considerable time, energy and expense.

Congress should also remove the computation of the utilitiy allowance from the rent payment determination, thereby assuring a minimum rent payment from all participants. This would eliminate negative rents, which erode pride and dignity when shelter is provided to some at no cost whatsoever, while hard-working neighbors must pay more as their incomes rise. Understandable confusion and frustration arise from these situations for both the housing authority and its more diligent participants.

Congress should require that participants' utility payments be paid directly to the utility company by the housing authority. The utility payment level could be determined by (but not exceed) the utility allowance schedules. This would avoid the current possibility of duplicate utility payments to a single family from more than one assistance program source such as the Housing Authority, Energy Assistance, or General Assistance, and allow available federal dollars to serve more families in need.

Congress should consider allowing an IHA to require that rental payments from subsidized housing participants be by direct payment from the source of income. This would conform with one of the Inspectors General's recommendations in its 1986 Report. Under current law, direct payments are an option but only if the participant agrees. This means that the idea only works for those who would normally pay any way. With tenant accounts receivables (TAR's) now the single most visible program deficiency afflicting IHAs, this action would greatly assist IHAs in reducing the TARs problem. Other benefits would accrue -- such a direct payment program would provide the IHA with an early warning of a family's mounting economic difficulty because the IHA would be one of the first to know when the payment stream is terminated, thereby allowing the IHA to try to secrue necessary assistance availble to the family in the community until payments resume.

Congress should additionally permit a standard deduction, such as used by the IRS, for reducing family income prior to determination of rent payments. Adequate funds retained by a family of limited means can reduce assistance costs in the future by providing the family adequate funds for the maintenance and upkeep of the home. For example, including a $1000 deduction per household member would recognize the family's role in meeting critical needs in addition other to shelter. Under the 30% rent formula, A family of five with an income of $8,000 would pay 30% of $3,000 or $900 annual rent compared to the current $1,968 annual rent (assuming three dependents). The additional $1,068 of spendable income to the family at the poverty level would result in a dramtic increase in their living standard. As you get into higher incomes, and the same fixed percentages are applied, the impact on available spending money is less striking. For instance, at an income of $16,000, the same family would pay $3,300 annual rent, but still have $12,700 for other essentials. In addition, once the housing authority can show participant familes that a more reasonable income provision has been made for the family, a family's self-initiative will be strengthened and rental collection rates should improve. Over time, the housing authority will achieve a more favorable image, resulting in improved relations and reduced conflicts throughout the program.

Congress should also provide for a maintenance fee to be part of the Mutual Help Program minimum monthly administration fee for each participant. The fee would accumulate in each particpant's equity account to be used for maintenance of the unit. Currently, unless a participant's required monthly payment is more than the minimum, no money is saved for emergency or routine repairs to the unit.

D. Problems Crippling the Old Mutual Help Program.

The Old Mutual Help Program has evolved into a program far different from the original vision of its founders. At its inception in the 1960s, the program was intended to serve the lowest income families on Indian reservations, meaning those families who could not afford to pay rent under the Low Income Rental Program. At the time, the rental program has fixed rents, requiring renters to meet higher income levels in order to become renters. The Old Mutual Help Program was fashioned to provide affordable housing by involving lower income families in the construction of their homes under a Mutual Help Agreement in which they would have to make at least a minimum monthly payment in addition to paying all utilities and maintenance costs on their home. Passage of the Brooke Amendment together with the ravages of inflation in the 1970s, has changed this picture dramatically.

The Brooke Amendment (rental rate based on ability to pay) gave considerable assistance to rental families. In rental homes, the routine maintenance was paid by the Housing Authority. Rent and utility payments were capped at 25% of adjusted income. Because of the interplay of extremely low incomes on Indian reservations and these formulas, many rental families were not required to pay rent and also had part of their utilities paid from their subsidy through the housing authority. In contrast, the families in the Old Mutual Help Program, who were of lower incomes than rental families, received no assistance with their payments, utilities or maintenance. As inflation eroded the spendable income of these families, and as heating costs sharply rose during the oil crisis, Old Mutual Help families fell further and further behind as the hard realities of home ownership surfaced. Through no fault of their own, they began to lose their homes.

In 1976, the Old Mutual Help Program was revised into the New Mutual Help Program, with critical changes which completely reversed the roles of all housing programs. To qualify for a New Mutual Help Program home, a family now had to have sufficient income to afford the realities of home ownership, including at least minimum payments (based on income of the household), utilities, applicance replacements, water pump replacements, drainfield revisions, and all maintenance on the home. The change to a New Mutual Help Program did nothing to resolve the problems in the Old Mutual Help Program, but it did redirect the emphasis of the rental program to serve lower and now very low income families.

Since 1976, nothing has been done to alleviate the burden placed on the Old Mutual Help Program participants, and the tenant accounts receivables of the program continue to plague housing authorities and invoke sanctions from HUD for not evicting or collecting from these families.

Congress should provide that participants' payments under the Old Mutual Help Program be adjusted to an ability to pay basis similar to that provided renters under the Brooke Amendment, without jeopardizing their home ownership potential. The continued hardship of excessive payment requirements in relation to their income has placed many families in crisi and left many homes in need of substantial repairs. Congress should also provide assistance funds for maintenance, payments, and utilities as necessary.

Congress should consider expediting the transfer of home ownership, possibly under debt forgiveness legislation, in cases where no hardship will befall the particpant of the housing authority, in order to relieve these families of additional hardship and loss near the end of their Mutual Help Agreement. A program needs to be developed which will assure these families that some assistance will be available to them after transfer of home ownership that will help ensure that they will not lose their home in a catastrophy or diaster.

Congress should also provide for conversion of the old Turnkey III program units and Old Mutual Help units to the New Mutual help Program, or to rental status, as the option of the participant and in the best interest of the participant. These two older programs are no longer developed, and conversion would greatly aid resolution of problems administering these old programs. Corresponding reductions in accounting functions and paperwork would more than justify any inefficiencies arising from conversion, not to mention the short-and-long-term reduction of hardship on the participants.

E. HUD Support for Indian Housing Must Be Activated by Congress

Under the current HUD administration, the Indian Housing Program has suffered a two-thirds cut in new development funding. In addition, HUD has rgularly threatened appropriated Indian housing funds through recision and recapture efforts aimed at Indian housing programs. These battles have further diverted energies required to provide decent housing for Indian families.

Only because of Congress' concern and commitments, together with the diligent efforts of Tribes, tribal government leaders, tribal organization, and Indian housing authroities, has the program continued to survive these assaults, albeit at a much-reduced level of assistance to homeless Indian families.

The Inspector General's Reorpt of 1986 on "The Development & Management of Indian Housing, " made several recommendations for change in the HUD Indian Housing Program, especially at the HUD Administrative level. Some of the recommendations include:

1. Simplify the program to meet needs and condition at the reservation level.
2. Reduce program types to two to provide less complex administration by Indian housing authorities.
3. Simplify regulations.
4. Improve management capabilities.
5. Eliminate complex accounting requirements.
6. Establish standards of performance.
7. Streamline the development process.
8. Provide for site development before unit allocations.
9. Place HUD's Regional Offices of Indian Programs under the direction of HUD's central Office of Indian Housing.

Although HUD has addressed some of the recommendations, much more must be done.

We are increasingly concerned by the lack of support and productivity from several individuals in HUD's Central Office of Indian Housing, and suspect some ulterior motives lie behind the inactivity. Key individuals are holding back the expected, albeit slow, progress of consolidated Indian housing program regulations which were supposed to have been out last year. These regulations would be of tremendous benefit to Indian housing authority directors in daily operations. An Indian housing management handbook, contracted for development by HUD, has yet to appear. The employment of Indian people in the HUD Indian Program Offices has been at only minimal, near token levels, thereby precluding the development of understandings of reservation life that are necessary to adequately and efficiently address reservation needs. Chronic staff shortages in the Indian program offices perpetually result in questions going unanswereed and decisions unresolved for weeks as an already-short staff is required to cover duties of the vacated positions.

At present, plans developed at the headquarter's Office of Indian Housing are often ignored by the regional level office because the Regional Ofice administrators have line authroity over the regional OIPs. This has caused great variations between OIP regions in program administration and in the implementation of regulations. In many cases, Indian housing directors must rely on each other for information on the administration of the program. Diecrepancies in procedures or policies between regions add frustration and confusion to an already uncertain situation. Improved lines of authority would provide the possibility for more HUD assistance to Indian Housing Authorities in the area of standardized policies and procedures, boiler plates for repetitive operations, and revised forms to address changing regulations. Most if not all of the Indian Housing Authorities must now "reinvent the wheel" for many operations, policies, and procedures that are identical for all Indian Housing Authorities but for which nor forum is available to standardize and distribute work products of the idnividual housing authorities.

Congress should establish a direct line of authority from HUD's central office of Indian Housing to its Regional Offices of Indian Programs (OIPs). If revisions to the Indian housing program include reductions in regulations to afford a more efficient program, direct authoirty over regional offices would minimize delays and excessive paper work for all parties involved.

Congress should expand HUD's Indian preference policy to include Indian preference in employment for staff positions in the OIPs and Central Office of Indian Housing. Employment of Indian people would offer greater understanding and communication opportunities between program offices and Indian housing authorities. Congress should also ensure that adequate staffing levels are guaranteed to HUD's Indian Housing Program to assure an efficient operation. Congress should also consider ordering a comprehensive revision and reduction of regulations by requireing the delegation of more responsibility to Indain housing authorities while retaining effective HUD oversight.

F. HUD Must Be Ordered To Support Sound IHA Management.

Our base of experience at Sault Tribe has led us to believe that Indian Housing Authority Executive Directors perform a unique and often impossible task. While their housing authorities are condemned by HUD for high tenant accounts receivables (TAR's) and for being on the "financially troubled" list, they must work with an insufficient budget, a skeletal staff, and an acocunting system that is, to put it gently, uniquely illogical. All aspects of the nationwide public housing program must be totally understood, according to the HUD Management and Development Representatives, or the label of a mismanaged housing authority will be applied systematically to the entire local Indian housing program. All of the above must be performed within the parameters of a program designed and funded for urban areas, but applied by most Indian Housing Authorities on remote reservations with units scattered over hundreds of square miles, with budgets based on the number of units served with no provision for the unique differences between public and Indian Housing Authorities.

In order to operate a successful housing authority, it must be staffed with qualified staff. In many cases Indian Housing Authorities have not been able to attract already experienced or trained staff. The HUD Indian Housing Program has provided bery lieele training from certified trainers with experience in Indain housing. Teh training currently required under public housing training programs bears little resemblance to the HUD Indian Housing Programs administered on reservations. Inadequate training has long been identified as a contributor to many deficiencies found in IHA management. IHA salaries are not sufficient to attrat individuals already possessing the necessary qualifications or experience. The result has been that most staff especially the executive directors of Indian housing aurhtoities have learned the program for on the job training.

In many cases it takes several years to attain a working knowledge of the HUD Indian Housing Program due to its complexity. This is generally longer than the average term of employment of most directors. Consequently, very few Indian Housing Authority directors get the opportunity to understand the program will enough to do an in-depth study for the purpose of correcting or exposing the programs' problems. Instead, they are kept busy trying to patch the program together when in fact, the program design is fatally flawed because of the environment in which it has been placed. No one dares complain for fear it would simply fuel efforts to eliminate the entire HUD Indian Housing Program due to perceived waste and abuse. Often these exceptions are misunderstandings of good faith efforts to make this ill-fitting program work in a context other than that originally intended. The high rate of turnover in directos of Indian Housing Authorities is directly caused by these frustrations.

Congress should direct HUD to provide resources to Indian Housing Authrootiies to improve their management capabilities. This should be done expressly through training by certified Indian housing trainers with demonstrated experience and expertise in the field of Indian housing. Most importantly, make provisions for the smallest and least funded housing authorities to have adequate training and interaction with existing program directors so that all available resources may be utilized to assist new authorities.

Congress should require HUD to simplify the now overly-complex accounting requirements so that Indian Housing Authroity staff can efficiently perform the accounting services themselves rather that through contracted accountant services. If IHA staff gains a greater understanding of the accounting aspects of the HUD Indian Housing Program, they will necessarily have a more thorough understanding of the entire program.

Congress should also provide adequate funding for training of IHA directors and staff to achieve the long-term goal of sustained employment and expertise of operations at each Indian Housing Authority.

Congress must direct that HUD accelerate the recovery of abandoned units so that Indain Housing Authorities can reduce the security expenditures on avandoned units now required even on units in remote locations, Currently, a unit must be vacant for 30 days before the Indian Housing Authroity may step in to reassign the unit. With the need for housing so great, this leads to significant administrative problems and costs. A revision of this provision to "5 to 10 days without informing the housing authority," would be more realistic given the situation.

Congress should determine the measurable differences between public and Indian housing in order to accurately rvise and correct inequities in staffing, funding and management.

G. The Performance Funding System Must be Fundamentally Revised.

One primary difference between public and Indian Housing Authorities is in the appropriate levels of subsidy provided through the Performance Funding System (PFS). In our considerable number of years of experience in the field of Indian housing, we can state without question that the PFS formula has been a major obstacle to the successful operation of Indian Housing Authroities.

Indian Housing Authorities are small-sized compared to the large public housing agencies for which the housing programs have been designed. The average public housing authority manages approximately 2,500 units. The average Indian Housing Authority manages approximately 350 units. The PFS is designed to operate in a large-scale context. It bases IHAs operating budget funding on the actual rents collected and a formula subsidy determined by the number of units served. The law of large numbers doesn't work for Indian Housing Authorities under the PFS formula. The ill-fitting, size-oriented PFS formula is a major contibuting factor in the numerical growth of "financially troubled" Indian Housing Authorities.

Both public housing and Indian Housing Authorities must execute the same amount of administrative paperwork, establish accounting systems, develop a maintenance program, and provide administrative services. In addition, Indian Housing Authorities are required to provide more services, with fewer dollars, over greater distances, with fewer staff, less training, and on lower salaries than in public housing. When attempts have been made to bring this system-wide disparity to the attention of HUD officials, they have trivialized and dismissed our critiques as being merely bald attempts to get salary increased.

Congress should mandate the development of an Indian Performance Funding System that takes into account the unique requirements of providing Indian housing. Such a system should address the different needs arising in Indian reservation rural houisng, such as the necessity of replacements of limited-life items like water pumps, drainfields, and heating equipment. It should also take care of the increased insurance costs due to the usual absence on reservations of urban-like fire protection and community water systems. It should also include a minumum funding level to Indian Housing Authorities to sustain operations at a reasonable level, regardless of the number of units managed.

Congress should also provide for meeting allowances for the commissioners of Indain Housing Authorities. Typically, Indian Housing Commissioneres now must travel long distances to attend meetings. Often low income themselves, they should be reimbursed for their time and travel. The experience of Indian Houisng Acommissioners again is entirely different from that of regular Public Housing commissioners. In authorizing regular public housing authorities, Congress recognized that a local business community would benefit from the significant government spending that occurs when a low income housing project is contructed and managed in a community. This business attracted to the boards of public housing authorities business and professional people of the community who realized an indirect financial benefit through their business or profession. In the case of Indian Housing Authorities, the situation is totally removed from the premise upon which the public housing practice is based. The business and political worlds of the urban public housing context and the Indain reservation context are as different as night and day.

H. Development and Construction of New Housing Units.

Development of Indian housing is make especially complex by reason of the unique status of Indain land, the remotemess of the construction areas, and in many cased, very short construction seasons (in the northern United States and Alaska). To further complicate matters, each Indian housing project must be approved by the Bureau of Indian AFfairs (BIA), Indian Health Service

(IHS). State Historical Preservation Agency, utility companies and HUD, among others, prior to the development of any homes. With significantly depressed economies, Tribes do not have the funds available to begin to develop sites prior to the allocation of units from HUD. So normal site development typically is stalled by bureaucratic foot-dragging and in-fighting that creates impossible development timeline requirements at the construction site.

Many of the problems in developing Indian housing can be traced to the failure of the bureaucracies to coordinate their efforts so that an IHA can timely obtain the sites and get clearances for the development program. Added to this are substantial uncertainties about the role of the HUD Development Representatives and Inspectors, especially among small or new Indian Housing Authorties without experience or expertise. In many such cases, considerable IHA reliance on HUD turned out to be unwise for things like construction inspection, where the HUD-created category of technical assistance implied more than HUD actually provided.

In recent years, the re-use of plans and specifications has contributed significantly to the reduction in cost of new projects. In future years, as innovative and pilot projects are pursued, it may be possible to stretch the limited funds to provide additional units.

In order to address the lack of coordination among the bureaucracies, Congress should provide Indian Housing Authorities with the authority to use HUD construction funds as repayable advances for the timely and efficient development of sites and necessary infrastructure. HUD should provide additional funds for this purpose.

Congress should streamline the development process, using certified waivers and proclaimers in conjunction with HUD oversight whereever possible. Rocognizing the established ability of many Indain Housing Authorities to develop professional projects with little or no outside assistance, congress should minimize HUD controls so that limited HUD resources can be used to assist those most in need. For those IHAs in need of assistance, Congress should require HUD to place staff at all levels of the Offices of Indian Programs who have individual and considerable expertise int eh development and construction areas of Indian housing.

Congress should require HUD to develop and provide IHAs with practical guides for the several different types of construction, including the steps and regulations that must be complied with throughout the stages of development. As regulations change, HUD should be required to update its guides. (If properly developed, the long-awaited Indian Housing Management Handbook may provide the necesssary guides for this.)

Congress should require the execution of a new Tri-Agency Agreement between the IHS, BIA, and HUD to reaffirm and update their appropriate responsiblities in the development and constructionof HUD Indian housing. The existing Tri-Agency Agreement has simply not worked because of the funding constraints of the BIA and IHS and the pass-through of HUD money to the IHS for off-site facilities on HUD projects.

Congress should obligate HUD to collect and standardize house plans and specifications it has approved at the Central Office level for use by Indian housing Authorities as needed at no charge.

IV. CONCLUDING REMARKS.

The current Indian Housing program, although extremely complex, still provides housing to Indian families like no other program of its kind ever has done. Our challenge is to provide more units, and to do it more effectively within recognized limits of funding. Although the daily operating frustrations may never be totally eliminated, it should be the goal of everyone connected with the program to strive towards minimizing delays and unnecessary regulation in the interest of providing houisng to Indian families in the shortest possible time. To this end, the codification and technical revision of the HUD Indian Housing Program proposed in S. 1987 are necessary.

It was a pleasure to provide testimony to you today to indicate our support for S. 1987. It promises to begin a new day in Indian housing , a day for which members of the Sault Tribe have been waiting for for quite some time. We will continue to work with this Committee and its staff to forge the legislation necessary.

TESTIMONY OF TOM IRON
ON BEHALF OF THE
STANDING ROCK HOUSING AUTHORITY
ON
S. 1987,
BEFORE THE SENATE SELECT COMMITTEE ON INDIAN AFFAIRS
APRIL 20, 1988

Mr. Chairman and members of the Committee, I am Tom Iron, Chairman of the Housing Board of the Standing Rock Housing Authority. I appreciate this opportunity to testify on S. 1987, a bill to establish a separate program to provide housing assistance for Indians and Alaska Natives. The Standing Rock Housing Authority strongly supports establishing a firm statutory foundation for a separate Indian housing program, as S. 1987 would so. For too long, the HUD Indian Housing Program has labored under Public Housing statutes which were not intended to deal with the special housing needs in Indian country. This has created serious obstacles to the goal of providing safe, decent housing for Indian people. We applaud the members of this Committee who have introduced S. 1987 -- which clearly recognizes the need for Congress to address Indian housing problems directly.

The Standing Rock Housing Authority has been in existence since 1962. It currently administers 777 housing units, including 609 rental and 168 home ownership units. These homes are on the Standing Rock Sioux Reservation, in North and South Dakota. As the Committee is no doubt aware, the Standing Rock Sioux Reservation faces chronically high Indian unemployment -- generally in the range of 80% or more -- and therefore poverty is widespread. Likewise, there is virtually no private housing market throughout most of the Reservation. The Housing Authority fulfills a vital need in providing housing.

Despite the Housing Authority's best efforts, there is still a long way to go in providing decent, livable housing to all our people. Currently, there are 107 families on our waiting list. Until adequate funds are made available to provide homes for these families, they are forced to make do, living in grossly substandard homes, crowding into basements and the like. The only hope of many of these families for better housing is through the HUD housing program.

As the Committee recognizes, the United States Housing Act of 1937 was not enacted to provide housing for Indians. In fact, for 25 years after its passage, the 1937 Housing Act was never used to provide Indian housing at all. Finally, in 1961, HUD began to apply the program to Indian country. Since 1961, the HUD Indian Housing program has been in the shadow of the much larger Public Housing program. The Indian Housing program until now has operated under a curious mixture of statutes designed for other purposes and regulations attempting to deal with Indian problems. Without its own statutory basis, the Indian Housing program has been of something of an orphan within HUD.

The lack of a separate statutory authority for Indian housing has been reflected in the way many HUD officials deal with Indian housing. All too often, HUD officials speak of their Agency in terms of providing housing for low income people -- flatly denying that they have any special obligation to Indians. While there are some dedicated individuals within HUD, overall the Agency has failed to develop an understanding of the particular needs with respect to Indian housing. Another reflection of this is that HUD has failed to hire sufficient numbers of Indians -- specifically in management positions -- to work on Indian programs.

We understand that it is difficult to change attitudes by passing statutes. Still, a strong Congressional enactment which clearly mandates that HUD has well-defined obligations with respect to Indian Housing will certainly be an important first step toward making HUD more sensitive to Indian housing needs.

Over the years, the Standing Rock Housing Authority has had many problems with HUD. These problems demonstrate why it is important for Congress to separate Indian Housing from Public

Housing, and ultimately to define specifically HUD's responsibilities regarding Indian Housing.

1. Rental Payments. For several years, HUD has required that rental payments be set at 30% of adjusted gross income. This was taken directly from public housing requirements and it created great hardship in Indian country. We are pleased to see that S. 1987 would reduce rental to 20% of adjusted gross income, and would also allow some IHA flexibility regarding rental rates.

2. Cooperative Agreements. The United States Housing Act requires cooperative agreements between Public Housing Authorities and any municipality in which a public housing project is proposed. The cooperative agreement provides for payments in lieu of taxes by the Public Housing Authority to the municipality and for the municipality to provide normal municipal services (such as water and sewer).

HUD has also required such cooperative agreements for an Indian Housing Authority to acquire homes even in a majority non-Indian community on the Reservation. This provides non-Indian communities -- many of which are strongly anti-Indian -- with an effective veto over Indian housing. This HUD policy -- which invites racially motivated refusals by non-Indian communities -- must be changed.

In 1986, HUD made certain funds available to the Standing Rock Housing Authority to purchase homes in various Reservation communities. Before HUD would release the money, however, HUD required the Housing Authority to obtain cooperative agreements from the local communities where the homes are located. The cooperative agreements -- according to HUD -- needed to specify provisions dealing with payments in lieu of taxes and providing municipal services to Housing Authority homes on the same basis as to other residents of the municipality.

Several of the homes the Housing Authority wished to purchase were located in McLaughlin, South Dakota -- a predominantly non-Indian community on the Standing Rock Sioux Reservation. These homes were privately owned and were for sale at fair market value. The Housing Authority simply wished to buy these homes at their appraised value.

Racially motivated opposition soon surfaced. The City Council wrote a letter to the South Dakota Congressional delegation, demanding action to block the Housing Authority's purchase of 12 homes. The letter stated that -- in the City Council's view -- the purchase of these homes to provide Indian housing would have an adverse effect on property values. The letter made no effort to hide the City's opposition to Indian housing within the City limits.

Unfortunately, HUD's policy regarding cooperative agreements aided the City's opposition. The City held a referendum at which the non-Indian majority voted not to allow any cooperative agreement on the project.

The Housing Authority argued to HUD that a cooperative agreement was totally unnecessary. Since the lands were being taken into trust, there was no need for provisions dealing with payments in lieu of taxes. Likewise, we told HUD that the Eighth Circuit had already ruled that it was unlawful for a municipality to withhold water and sewer services to a home on trust land (in the case of Chase v. McMasters). Therefore, there was no need for the City of McLaughlin to agree to provide services -- since they were already required by law to do so. Still, HUD took the position that it would not release the funds without a valid cooperative agreement.

The Standing Rock Housing Authority went to federal court on this. Ultimately, the matter was resolved satisfactorily, with the Housing Authority purchasing the homes in the City of McLaughlin. But litigation should not have been necessary. HUD should not have allowed a non-Indian community to block or even delay an Indian Housing project by requiring a cooperative agreement.

We are pleased that S. 1987 appears to remove this problem, by requiring the Housing Authority to obtain an agreement of cooperation from the tribe involved. Section 204(e)(2). We would like to see this clarified to assure that non-Indian communities on reservations will not be required to consent to an Indian Housing project for that project to go forward. Likewise, we would like to see clarifying language that payments in lieu of taxes do not apply to trust lands.

3. Demolition of HUD funded structures. For several years HUD owned and operated a Retirement Complex on the Standing Rock Sioux Reservation. The tenants were poor, elderly Indians. There was no other residential facility on the Reservation for elderly Indians. Nevertheless, in 1983 HUD determined that it wished to stop operating this facility.

HUD moved forward with utter disregard for the elderly Indian tenants of the facility. HUD provided no notice of any kind to the tenants of its intent to close the Complex. Nor did HUD make any effort to determine if other suitable housing would be available for the tenants. Instead, HUD determined that it would simply abandon the Complex, stop paying for utilities and other services it had been providing, leave the building to decay, and abandon its elderly tenants who had no other place to live.

The Housing Authority and tenants learned of HUD's plans only when they saw a letter from HUD to the utility companies, stating that HUD would no longer be paying for the utilities. The Housing Authority and tenants filed suit in federal court to stop HUD's unlawful action. Once this was brought to court, HUD backed down and agreed to keep the Complex open. Still, this is a glaring example of HUD's complete lack of sensitivity to Indian housing needs.

Section 211 of S. 1987 deals with demolition and disposition of Indian housing at the application of the Indian Housing Authority. We urge the Committee to add language providing strong procedural safeguards where HUD itself wishes to demolish or dispose of Indian housing. HUD's conduct with regard to the Complex must be clearly outlawed by S. 1987.

Conclusion

We urge the Committee to report S. 1987 favorably. A separate Indian Housing Program with its own statutory basis is long overdue. We look forward to continuing to work with the Committee toward the goal of providing safe and decent housing for all our people.

Respectfully submitted,

Tom Iron, Chairman
Standing Rock Housing Authority
Board

Rosebud Sioux Tribe
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April 22, 1988

Honorable Daniel Inouye
Chairman
Select Committee on Indian Affairs
838 H.S.O.B.
United States Senate
Washington, D.C. 20510

Re: Written Testimony Submitted for Record on S. 1987

Dear Mr. Chairman:

I wish to submit for the record the Rosebud Sioux Tribal Council's strong support for the bill S. 1987, the Indian Housing Act of 1987.

This bill would separate the Indian housing program at HUD from HUD's regular, urban-oriented public housing programs. Such a step is absolutely required if we are to see in our lifetimes the changes necessary in the HUD Indian housing program.

There are sharp contrasts between HUD's regular, urban-oriented public housing and the requirements of building and managing Indian housing in Indian Country. These differences keep coming up as we administer HUD programs, but HUD bureaucrats just are not responding to our complaints nor our suggestions for change.

Since HUD first began to build housing in Indian Country, the whole program has been snarled in red tape and delays. We need a separate and distinct Indian Housing Program at HUD in order to get rid of the complex requirements that do not fit reservation realities and simplify the program so that it efficiently produces houses that fit our culture, our need, and our reservation environment.

Our housing needs are at critical levels at Rosebud. Much ado has been made in the news media in recent years about homelessness. We have homeless people on our reservation but they are as visible as homeless people in cities. When our people lose their homes, they typically double-up and triple-up with members of their families, or they live in vehicles or head off-reservation and to the cities. We are losing more and more people, and we see it as a threat to our tribal government when employment and decent housing opportunities are virtually nonexistent on reservation.

We support the provision in S. 1987 which reduces the percentage of family income to be paid for subsidized housing rent from 30% to 20%. If you can succeed in passing this adjustment, it will mean that Congress has finally begun to recognize the uniquely depressed economies on Indian reservations. We also note with favor the bill's adjustments to family income for "excessive travel costs." Travel costs are very real and necessary expenses for families on our reservation, given the vast distances they must commute for basic services. Rental formulas, like most of the HUD housing program regulations, were written with urban dwellers in mind, not residents of our reservation.

Current HUD program requirements simply do not take into account the extra expenses borne by Rosebud families typically living in individual homes in remote areas without transportation options far from employment sources and under the harshest economic conditions existing in the United States. As a result, the share of spendable income that Indian families pay for housing is far higher than the share spent by urban public housing families.

We do ask that you strengthen S. 1987's provisions outlining the relationships between the Indian Housing Authorities (IHAs) and HUD to reflect support for strong tribal government control. Several sections of S. 1987 require only consultation with the affected Indian Tribe. Although S. 1987 keeps the Tribe's power to appoint IHA commissioners, the central involvement of the Tribe in the big issues of management and direction of the IHA should be enhanced if at all possible by requiring tribal consent to proposed IHA actions. So we ask that the following sections be amended to include the principle of tribal consent, as opposed to mere consultation: §204(c)(5), §209(d)(5), §209(f)(2)(D), and §209(h)(1).

Thank you for this opportunity to express our support for S. 1987. We are delighted that you intend to push for prompt markup and passage of this important bill.

Very truly yours,

Alex Lunderman *

Alex Lunderman
Chairman
Rosebud Sioux Tribal Council

* By Patricia Marks
Tribal Attorney

QUESTIONS FOR PANEL III

QUESTIONS 1, 5, & 9

1) Have your organizations examined the problem of a lack of adequate housing for non-low income Indian families who desire to live on their reservations? Do you have any recommendations as to how to address this problem?

5) Does this program need to be expanded to include non-low income Indian families as eligible participants?

9) In your opinion, why have HUD and VA loan guarantees, the FmHA programs, and other federally-funded housing development programs not worked on Indian reservations?

RESPONSE TO QUESTIONS 1, 5, and 9

The Housing Assistance Council (HAC) is keenly aware of the problems facing non-lower income Indian families who wish to to live on their reservations. These families are not gaining access to the existing federal housing programs designed to serve all eligible Americans, such as the mortgage insurance and guarantee programs of the Federal Housing Administration (FHA) and the Veterans Administration. We are also cognizant that lower income, reservation-based Indian families are not adequately served by the "non-Indian" assisted housing programs of the Department of Housing and Urban Development (HUD), and those of the Farmers Home Administration (FmHA).

The ways to remedy these problems include a modest expansion of the income-limit restrictions in the HUD Mutual Help program, reexamination and adjustment of the other existing federal housing programs to ensure full Indian participation, an outreach program and changes in the delivery mechanisms, as necessary, where the programs do not serve their target populations, and a fully funded HUD Indian housing development program with the proper management and technical support structure to meet the escalating needs.

Private market housing does not exist on most reservations because of lender reluctance to deal with the trust status of Indian lands, the negative consequences of prior federal policies such as the allotment process (checkerboarding and fractionated heirship), generally unfounded fears about the "instability" of tribal governments, the dearth of entrepeneurs and capital to develop private market housing projects, the refusal of lending institutions to provide credit to individuals who desire to build or purchase housing units on reservations, and the lack of a coordinated effort to overcome these problems.

We suggest several solutions in our testimony. Adoption of Section 203(d)(2) of H.R. 3927, which provides for a modest exception to the lower-income limitation on the use of the HUD Mutual Help Homeownership Program (MHO), is a first step. The exemption allows for 10% of the units in a project, or 5 units, whichever is higher, to be set aside for non-lower income Indian families, once the need for such an exception has been satisfactorily demonstrated to HUD by an Indian housing authority (IHA).

A second step would involve the revamping of other federal housing programs to reach Indian families residing on reservations. The FHA, VA and FmHA programs are based upon mortgage loans. Lenders, despite federal laws and regulations providing that a leasehold interest in trust land is a sufficient security interest to trigger federal mortgage insurance or a loan guarantee, do not participate. We believe that a number of factors preclude participation. Our recent brief analysis of why the FHA 203(b) program is not working on reservations may be informative.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. No. 98-181), added a new section 248 to the National Housing Act of 1949. That section, entitled "Single Family Mortgage Insurance on Indian Reservations", permits the Secretary of HUD to insure mortgages for one- to four-family properties located on Indian lands, when the land is held in trust or its alienability may be otherwise restricted. It further directed the Secretary to issue regulations implementing the provisions of the act. On October 19, 1984, HUD issued a proposed rule covering certain portions of Section 248.

On June 16, 1986, HUD issued a final rule, effective August 1, 1986, on the matter. See 51 Fed. Reg. 21,866 (codified at 24 C.F.R. Parts 200, 203, 204, 220, 221, 222, 226, 227, 237 and 240). The rule is limited to mortgages secured by a leasehold interest, where an individual Indian, and not the tribe, is the mortgagor.

Information accompanying the final rule makes reference to a separate rule-making procedure addressing situations where the tribe, and not an individual Indian, is the mortgagor. As of April 22, 1988, no proposed rule has been promulgated covering this issue.

The new rule is viewed by some tribes as cumbersome, and requires that the tribe have in place certain procedures that are seen as diminishments of tribal sovereignty, tribal self-government, and tribal court jurisdiction.

Lending institutions have been reluctant to participate and we can cite no examples where lenders are either soliciting or approving mortgage loans on trust lands to individual Indians.

We know of no outreach activities, although it is stated in the commentary preceding the rule that: "HUD is also planning training and outreach efforts to encourage mortgage activity." Id. at 21,868.

We believe that some very limited activity is occurring, but have no access to data sources to support our belief. HUD may compile such statistics and we would encourage the committee to consult with them. However, an attempt was made to obtain similar data in the past. During an April 19, 1983 hearing on S.856, the "Indian Housing Act of 1983", then Senate Select Committee on Indian Affairs Staff Director Paul Alexander reiterated a question posed to HUD by Senator John Melcher during budget oversight hearings in February, 1983. He asked HUD General Deputy Assistant Secretary for Housing Phil Abrams to compile a list of "mortgage bankers who have loaned money to Indians with trust lands." The response was as follows:

> "Mr. ABRAMS: We have compiled some areas where there have been FHA insured mortgages on Indian lands in Oklahoma, and we are aware of seven multi-family mortgages in those instances. We are also aware of 142 FHA insured mortgages on Navajo land.
>
> We do not at this point, have the specific mortgagees who are involved, but we would be happy to provide that.
>
> Mr. ALEXANDER: We would appreciate that. Without objection, the record will be held open to receive that information.
>
> [Subsequent to the hearing the following information was received for the record:]
>
> The seven FHA-insured mortgages on Indian lands in Oklahoma, with the exception of the two Section 202s, were loans made on privately acquired land. The section 202 home loans were HUD financed loans.
>
> Specific mortgagees involved in FHA insured mortgages in Navajo areas include: Southern Trust Company, located in Phoenix, Arizona: Valley National Bank, located in Phoenix; First Federal and Savings, located in Phoenix; and Great Western Bank, also located in Phoenix."
>
> S. Hrg. No. 98-216 at 93.

We also call your attention to a table contained on page 251 of the FY 1989 Bureau of Indian Affairs Budget Justification. Entitled "New Homes Constructed and Repairs Completed, FY 1963 through FY 1987", the table lists a total of 2,782 homes "(b)uilt with credit loans." While no further information is provided, we must assume that these figures include the other HUD programs, FHA, VA, FmHA and tribal credit loan programs. Note that in 24 years, less than 2,800 Indian families have been served by all the existing federal mortgage loan programs.

In summary, we believe that the FHA 203(b) program is not effective on Indian trust or restricted lands, primarily because of lender reluctance and tribal apprehension. No successful program can ever result without lender cooperation which, to date, does not exist.

The FmHA loan, subsidy, and self-help programs are nominally available to Indians. FmHA also accepts a leasehold interest in trust lands for program participation. Yet FmHA programs are not found on reservations. In fact, if they exist at all, it is in locations such as Oklahoma and Alaska, where trust land is not a major issue. Memoranda of agreement and understanding exist between FmHA and the Bureau of Indian Affairs (BIA) to ease the problems of taking a security interest in trust lands. Despite this, tribal members do not use these programs. In the mid 1970s, FmHA began an Indian outreach program and in some cases, established offices on Indian reservations. Budget constraints have all but eliminated these efforts. They need revitalization, along with a concentrated outreach program designed to familiarize both FmHA employees and Indian families with regulations and procedures.

Finally, a federally-funded Indian Development Finance Corporation, such as that currently before the Congress (S.721 and H.R. 4248), should be created to provide investment opportunities and seed money which will leverage investor funds and eventually create new housing opportunities on reservations. Funding Indian-owned entities and joint ventures will provide the impetus for the private sector to begin investing in reservation-based housing development. Both investor incentives and tribal control will result over time. Use of public activity bond issues under the aegis of the Tribal Governmental Tax Status Act of 1982 (Pub.L. No. 97-473, 96 Stat. 2607), despite its restrictions, may prove possible. However, amendment of the act may be necessary. Using private purpose, public activity bonds may also prove beneficial, as might the use of 501(c)(3) bonds, direct purchase agreements with FNMA and FHLMC, and other cost-saving measures. Exploration should begin on developing a national Indian housing finance agency, based on existing state HFA models. The Indian Housing Loan Guarantee Fund as contained in Title III of S. 856, the Indian Housing Act of 1983, should be revisited for ideas. Any attachment or other compromise of trust land or other assets should not be a part of any proposal.

QUESTION 2

What are the problems related to the Davis-Bacon wage rates for housing construction on Indian reservations?

RESPONSE TO QUESTION 2

Payment of prevailing wage rates pursuant to the Davis-Bacon Act, as amended (42 U.S.C. Sec. 276a- 276a-5) for federally financed construction occurring on Indian reservations is an issue with several, often conflicting, perspectives. Some tribes feel that the added financial burdens associated with compliance in rural, isolated reservation settings drives total development costs up disproportionately. They argue that wage rates are set to reflect conditions in non-Indian jurisdictions, and do not consider local Indian employment rates, wages and related conditions. Reservation economies often remain depressed even as the surrounding areas experience prosperity.

Others state that the rates are inflated, making it either difficult or impossible to initiate formal training programs, provide on-the-job training, hire apprentices, or start other efforts aimed at reducing unemployment and training Indian people. Contractors cite additional costs of from 8 to 10 percent to comply with the red tape and reporting requirements of the act. These costs are passed on to HUD, and eventually, the occupants of the dwelling.

Advocates of the program argue that if the rates do not apply, the result is a bifurcated system with non-Indian workers getting paid often twice what the Indian worker would receive, thus creating a second class of Indian citizens who perform equal work for far less pay.

We believe that the current system can work by complying with a recent Department of Labor publication, Davis-Bacon Manual of Operations for Construction Wage Determinations, which identifies tribes as discrete political jurisdictions (see 29 C.F.R. Part 1.2(b)) and permits them to either set their own rates or to adopt the rate of the surrounding jurisdiction. While this places an added burden on the tribe, it allows them the flexibility to set rates to reflect tribal economic conditions.

A comprehensive study of the effect of Davis-Bacon on reservations should be undertaken. It should determine if Davis-Bacon thresholds should be raised, what effect it has on training and apprenticeship programs, its relationship to Indian preference regulations, its effect on development costs, and its overall appropriateness on Indian reservations. An independent, non-federal entity should conduct the study.

QUESTION 3

What types of technical assistance does HUD offer to Indian housing authorities? Is it adequate?

RESPONSE TO QUESTION 3

The Department of Housing and Urban Development (HUD) presently operates an Indian housing program under the direction of the Assistant Secretary for Public and Indian Housing. Indian field offices are located in Chicago, Oklahoma City, Denver, Phoenix, Seattle and Anchorage. As an adjunct to the Office of Public Housing (PH), the central Office of Indian Housing (OIH) and the Indian field offices (OIPs) vary both structurally and organizationally from public housing.

In theory, the technical resources of PH are available to OIH and OIPs. As a practical matter, they often are not. Technical assistance staff are functionally PH staff, and report to PH supervisors. Financial management staff do the same. The Offices of Policy Development and Research (PDR) and Single Family Housing may be called on to render assistance from time to time, but they do not function as a standing resource to OIH.

Technical staff from these offices, and regional and field office technical personnel may be willing to assist OIH and OIPs, but to our knowledge, there are only a few permanent staff members assigned to OIPs to provide technical assistance. OIH has no such personnel. It is beyond our ability to specifically cite the extent and nature of the technical assistance theoretically available to Indian housing authorities (IHAs), OIH and the OIPs. However, we are aware that there is a great need for professional architects, engineers and related professionals to assist the Indian housing program.

Personnel are needed to review construction bids, provide detailed engineers estimates, check site and house plans, and provide guidance on housing design, liveability, energy efficiency, safety, cost containment, and code requirements. Staffing both OIPs and OIH with professional architects and engineers will ultimately be extremely cost effective. These individuals should certify plans and designs, provide on-going consultation and technical assistance, and act as liaison, as necessary, to access the other existing resources within the department.

OIH staff must also be increased to provide proportional representation to PH. Based on the number of units managed, OIH staff should double, to 21-24. Of these, at least three should be technical personnel. Without additional personnel, OIH will not keep pace with its corresponding components in HUD. OIH cannot provide the institutional leadership which the new bill provides it unless staff levels and the appropriate mix of skills and expertise are included.

QUESTION 4

On what authority does the Mutual Help Homeownership Opportunity Program exist?

RESPONSE TO QUESTION 4

Although the U.S. Housing Act of 1937 authorized a public housing program for low-income families, it was not until 1961 that the Public Housing Administration (PHA), a predecessor agency to HUD, declared reservation-based Indian families eligible for the PHA low-rent program. PHA General Counsel Joseph Burstein found that, so long as a federally recognized tribe exercised the requisite legislative, governmental and police powers "to an acceptable degree", it could establish a local housing authority under tribal law. This local housing authority would then receive federal assistance and provide housing to Indian families in the same manner as public housing authorities. If questions arose regarding tribal governmental "ability", if land tenure issues were a problem, or if the tribe was not federally recognized, they could then petition their state legislature to pass a bill allowing for establishment of a local Indian housing authority under state law.

Under either the tribal or state law option, local Indian housing authorities (now called IHAs) began to serve their constituencies.

In August, 1962, the Bureau of Indian Affairs (BIA) formally requested an opinion from PHA as to whether PHA could begin a mutual help homeownership program on reservations. BIA stated that if the answer was "no", it would request funds from PHA for a demonstration program and then seek legislation to authorize such a program.

On November 30, 1962, PHA General Counsel Burstein found that sufficient legal authority already existed under the U.S. Housing Act of 1937 to engage in such a program. PHA Circular 12-5-62 announced the new program and advised all regional offices of the necessity for sample projects, central office review and approval, and the need for PHA-BIA coordination.

The only additional authority is also administrative. PHA/HUD operated the program by directives, circulars and memoranda. The first formal compilation was the HUD Interim Indian Housing Handbook #7440.1, issued on March 9, 1976. "Old" Mutual Help are those units developed prior to issuance of the handbook; "new" Mututal Help are those units subsequently developed. Revised Indian housing regulations were eventually promulgated, and made final on November 6, 1979. New, "consolidated" Indian housing regulations have been promised for over two years, and are currently in "OMB Clearance". We advise that the new bill contain time limits for promulgation of final regulations implementing the provisions of the act.

In summary, HUD operates its Mutual Help programs under administrative authority based on the U.S. Housing Act of 1937, through regulations and departmental operating guides, under a binding legal opinion of a prior departmental general counsel. The program comprises nearly two-thirds of the existing HUD assisted Indian housing program. As such, it deserves formal statutory authorization.

Section 203 of the Housing and Community Development Act of 1974 (Pub.L. No. 93-383, 88 Stat. 668, 42 U.S.C. 1437f), provides only for an exemption for Mutual Help projects from the rental formula found in Section 201 of that act.

QUESTIONS 6 & 7

6) Do HUD property standards not allow for the use of different designs and materials in its Indian housing program?

7) Does not HUD provide for the use of culturally appropriate traditional designs and materials in its Indian housing program?

RESPONSE TO QUESTIONS 6 and 7

HUD Minimum Property Standards (MPS) have been eliminated. Final regulations, effective November 1, 1985, made them no longer mandatory. Indian housing authorities (IHAs) now have the discretion to either adopt state or local codes, promulgate their own code, or use model codes, such as the Council of American Building Officials (CABO) One- and Two-Family Dwelling Code, either as-is, or with modifications.

H.R. 3927 contains a provision in Section 202(c)(3) providing for property standards to be established by regulation, and that they:

> "(A) provide sufficient flexibility to permit the use of different designs and materials".

The section also provides for consultation with Indian tribes and IHAs in the formulation of such regulations.

We believe that the decision to determine applicable property standards is a joint one, with HUD maintaining an oversight role only to the point of ensuring that federal funds are wisely spent. Tribes and IHAs have the capability to define their own needs best; however, they may need affirmative authority to engage in the use of culturally acceptable designs and the use of traditional materials which are unfamiliar to the majority population. They should have the discretion to do this without imposition of a rigid set of federally determined standards.

We mention these standards in our testimony because we are aware of only 4 projects approved by HUD where the use of traditional designs and materials was permitted. These efforts occurred under a "Traditional Indian Housing Initiative" in HUD Region IX. If the new defederalized property standards policy will allow IHAs to gain approval of such projects without imposition of an entire HUD-approved regulatory scheme, we think that current policies should not be disturbed. However, it may be advisable to affirmatively declare either in the bill itself or in committee report language that traditional designs and materials are acceptable.

QUESTION 8

In your opinion, what would constitute adequate "consultation" between HUD and tribes and Indian housing authorities as part of the regulatory process?

RESPONSE TO QUESTION 8

Adequate consultation throughout the regulatory process is crucial to the development of useful final regulations. Once this bill becomes law, a number of its provisions will require administrative regulations for implementation.

Meaningful consultation demands an on-going process of disclosure, discussion, and negotiation. Meetings should include program and policy staff from HUD Headquarters, Offices of Indian Programs (OIPs), HUD technical assistance staff, Office of General Counsel, Congressional staff members, IHA directors, tribal officials, national and regional Indian housing associations, housing advocacy organizations, and the appropriate Indian Health Service and Bureau of Indian Affairs personnel.

The most important element throughout the consultation process may be disclosure. By disclosure, we mean a procedure whereby the issues and proposals are thoroughly discussed prior to formulation of the proposed rules. We would expect that the parties come to the table with preliminary outlines of their positions (which may include draft rules). However, the process should not begin at the point where all but the promulgating agency have 30 days to respond to a set of proposed final rules which are published in the Federal Register for the minimum required notice and comment period.

Key personnel must begin their discussions long before the proposed rules are published. Good faith efforts to comply with the intent of the Administrative Procedures Act are necessary. HUD Indian housing regulations promulgated in the past have included adequate comment periods.

Concurrently, all parties must remain vigilant to prevent any disturbance of on-going Indian housing programs. Affirmative declarations of the validity of current programs, policies and procedures until actual implementation of the new law and rules should become part of this legislation. Development pipelines move slowly; there are relatively few new units being built. To stop or even delay any part of the development process prevents needy families from obtaining housing.

QUESTION 10

How wide-spread is the "homelessness" problem on Indian reservations? Is the federal government's role adequate in addressing this problem?

RESPONSE TO QUESTION 10

Homelessness is an ever increasing problem in this country. There are huge holes in this administration's social safety net. The results of the failure to adequately address low-income housing needs, unemployment problems, job training requirements, and the resultant family disintegration can now be seen on our urban streets.

In rural areas, the homeless lack such visibility, but they are there nonetheless. For example, five nonmetro counties in California were recently surveyed; the homeless population ranged from some 20 to 40 in one county to over 2,500 in two others. Many counties report problems but can provide no statistics. Low-income home loss in rural areas has reached an all-time high, with repossessions by the Farmers Home Administration amounting to over 20,000 in 1986.

On Indian reservations, families often double and triple up in units. Indians, like other rural people, are much more likely to turn to family or friends for help. The continuing strength of the extended family is reassuring, but it is not a solution to rural and Indian homelessness. These stressful situations often result in increased depression, alcoholism, domestic conflict and abuse.

On Indian reservations, there are few shelters available to house the homeless. They live in their cars, in chicken coops, in caves, in abandoned shacks, and in tents. Overcrowding has long been a problem on Indian reservations because of the lack of private market housing. We have no data to cite for statistics because the extent of the problem has not yet been quantified. There is a great need to do so.

It is important to define both the terms and the problems. Severe overcrowding in dilapidated units is also homelessness for all of the occupants.

The Bureau of Indian Affairs (BIA) conducts an annual inventory to assess housing conditions on reservations. BIA is in the best position to collect and collate such data. Additional resources should be provided to survey the conditions, numbers and extent of homelessness on Indian reservations.

On July 22, 1987, the Stewart B. McKinney Homeless Assistance Act became law. A result of two bills, H.R. 558 and S. 809, the final version, along with the FY'87 Supplemental Appropriations bill, provided $377 million in FY'87 and authorized $566 million for FY'88. The act provides for the following:

- The Emergency Food and Shelter Program administered by the Federal Emergency Management Agency (FEMA);
- The Emergency Shelter Grants Program administered by HUD;
- The Supportive Housing Demonstration Program and the Transitional Housing Program, also administered by HUD;
- The Permanent Housing for the Handicapped Program, through HUD;
- The Supplemental Assistance for Facilities to Assist the Homeless Program, again administered by HUD;
- A Special Section 8 Moderate Rehabilitation Certificate Program for Single-Room Occupancy Hotels, also a HUD program.

Other programs funded include those to use federal surplus properties, mental health services, education, job training and food services, all for the homeless.

A Senate amendment would have set aside for Indian tribes 1.5 percent of all funds under the FEMA Emergency Food and Shelter Program, the Housing Assistance Programs, Health Service Programs, and the Job Training for the Homeless Demonstration Project. Only the latter survived the conference committee with a 1.5 percent setaside for Indians. Indian tribes are designated as eligible entities without special setasides only in the

Supportive Housing Demonstration Program and the Supplemental Assistance Program (a small program designed to fill the gaps in the other McKinney Act housing programs, with a total of $15 million available for FY '87-88).

The bulk of the available funds are in the FEMA Emergency Food and Shelter Program (EFSP), and the HUD Emergency Shelter Grants Program (ESGP). For example, in FY '88, FEMA is distributing $124 million in its EFSP. The distribution network consists of local recipient organizations identified by a national board made up of organizations such as the Red Cross and the United Way. This is a county system, with the residual funds going into a state pot. Tribes are not eligible jurisdictions. Although they have attempted to survey tribal participation, FEMA is not serving homeless Indian people because its distribution network relies on local non-Indian jurisdictions to include reservation residents in its service population. Meetings between Indian organizations and FEMA have clarified the problems, but FEMA staff state that they are constrained from providing a special Indian setaside. Congress should provide one.

The HUD ESGP must go to, or through, a unit of local government. HUD has stated for the record that Indian tribes are generally not eligible, because they are not included in the authorizing legislation's definition of local government. They could, however, award "unused" funds to tribal governments. These would be either unobligated or recaptured funds.

In summary, McKinney Act programs are not available to Indians in proportion to the need because the need has yet to be quantified, because rural homelessness and Indian homelessness are still generally ignored, and because both the urban thrust of the programs and their lack of an Indian delivery system prevents their use.

Perhaps in 25 years, as with the HUD Indian housing program, there will finally be a recognition that Indian people living on reservations have special needs and that programs and delivery systems designed for the majority population cannot meet them.

Questions and Answers -
Senate Select Committee Hearing - April 20, 1988

QUESTION #1: Since 1970, the number of Indian families in need of new or substantially rehabilitated homes has increased from 63,000 to nearly 93,000. Why has HUD proposed to reduce the fiscal year 1989 appropriations for Indian Housing from 2,000 to 1,000 units in view of the growing need for housing?

ANSWER: First, it should be pointed out that the most recent BIA consolidated housing survey (dated FY 1987) shows a need of 53,090 new housing units and 39,880 housing units needing renovation.

It is true HUD has proposed 1,000 new units in FY 1989. This is in addition to the 2,000 units to be reserved in FY 1988 and the almost 10,000 units in the Indian Housing pipeline. These additional units will meet about 25% of the reported need. It should also be emphasized that since the early 80's HUD has provided 38% of all housing in Indian areas. We believe 1,000 units is a reasonable commitment, in light of Federal deficit considerations.

QUESTION #2: What do you think of the block grant approach to providing housing assistance to Indian families?

ANSWER: The Department has not yet taken a position on the use of housing block grants for either Indian or non-Indian housing. The Senate Banking Committee proposed an Indian block grant program in the mid-eighties. The Indian groups were unanimous in their opposition to this approach, and as a result, the Department determined it would revise the current program under the US Housing Act rather than to propose a new delivery system.

QUESTION #3: The HUD Indian Housing program has been without a director for over a year. What has been the delay in filling this position?

ANSWER: A new Director of the Office of Indian Housing has been selected and the required personnel clearances for this Senior Executive Service position are in process.

QUESTIONS #4 and #5: How many Indians are currently employed in the Indian Programs Office at HUD central office? How many Indians have been employed at central office over the past three years?

ANSWER: Following are statistics on Indians/Native Americans employed in HUD. It should be noted that most new professional employees hired by the Office of Indian Housing during the past 3 years have been Indians.

Indian/Alaska Native Employment in HUD:

	OIH	% IN OIH	OTHER HUD HDQTS	TOTAL HUD
End of FY 1985	2	16%	11	85
End of FY 1986	2	16%	10	103
End of FY 1987	2	16%	16	112

QUESTION #6: Would you explain how the "Rapid Indian Housing Payment System" works? What is its current status?

ANSWER: See answer to question 7a. Please note that the Department has and will continue to support and utilize the RIHPS system for Indian Housing. RHPS has proven to be so effective that we are now in the process of implementing it in the Public Housing Program.

QUESTION #7: It is our understanding that a number of projects were initiated within the Indian Housing Programs Office in the 2 years prior to May, 1987 to enhance the delivery of housing services to Indian families. Would you explain the types of projects initiated? What is the status of these projects?

ANSWER: During the past several fiscal years, we have initiated and implemented the following. All of these initiatives are currently in operation.

a) Rapid Housing Payments System (RHPS)
Effective February 1, 1987, all requests for Modernization/Development advances in the Indian housing program are paid through RIHPS. Under this system, IHA requisitions are paid based upon actual invoices received. Funds are no longer advanced based on 60 to 120 day estimate of needs. Requisitions are processed in about 10 days and can be processed in as little as 3 days in emergency situations.

As the result of the use of RHPS, excess financing (funds advanced to an IHA in excess of needs) is eliminated, the process of IHA requisitioning and HUD approval of funds is streamlined; the time to process is greatly reduced, HUD Headquarters and field offices now have identical records; and the government saves $9 million dollars per year in interest.

b) Management Information Retrieval System (MIRS)
The Office of Indian Housing initiated, and is implementing, the development of a computer tracking system called MIRS for effective remote monitoring of IHA performance and Indian field office operations. This includes allocation of microcomputers to nine sites in the six Indian field offices.

MIRS incorporates and permits cross-referencing among compatible data bases, to provide an ongoing monitoring capacity, as well as instant access to data in response to specific inquiries. This system is operational in all 6 of the OIPs. In the future we will explore the best way to have IHAs involved in the system.

c) Annual Capabilities Assessment (ACA)

In response to concerns about the treatment in the award of development funds, the Headquarters Indian housing office standardized the method for allocating funds to the six Indian field offices.

An "ACA" document was initiated to provide an equitable and uniform way for Indian field offices to award new development funds to IHAs. The document is also used as a tool for rewarding sustained performance and to isolate IHA problems, so Indian field offices can provide the appropriate level, type, and amount of technical assistance to the IHAs. Please note that the ACA is being revised for FY 87 to address concerns by IHAs, field staff and others.

d) Monitoring Handbook

The Office of Indian Housing Programs issued the Field Office Monitoring of Indian Housing Authorities (IHAs) HUD Handbook 7440.3, dated October 24, 1986. This handbook allows the field offices to focus its resources on those IHAs which have problems and to give maximum latitude to the IHAs which have demonstrated that they are carrying out the objectives of the program in a satisfactory manner. The handbook provides flexibility to the Indian field offices in determining the type, frequency, and scope of reviews.

With this remote monitoring capability, some portion of the review function can be conducted without the necessity or cost of traveling to an IHA. Where necessary, field travel can be more specifically focused on problem areas identified by remote monitoring and analysis. This allows Indian field staff more time and resources to deliver technical assistance.

The monitoring model provides a mechanism to permit at least an annual assessment of IHA capability using the Annual Capabilities Assessment form. Information derived from the field offices' monitoring process is analyzed, and used periodically to assess an IHA's performance.

e) Deregulatory Initiatives

For the Indian housing program, deregulation initiatives implemented during this Admnistration include:

Special "Certification" projects, begun with FY 84 development funds, to test whether less federal involvement would result in housing built in a shorter period of time. These projects moved through the preconstruction pipeline in 12 months, half the time normally required for processing in the Indian program. This demonstration has been continued in FY 85, 86, 87, and 88 until its provisions are adopted into the consolidated regulations. We are also exploring deregulatory initiatives for Indian housing management - similar to those being considered in public housing.

The consolidated Indian housing regulation contains a policy permitting Indian field offices to allow well-managed IHAs to develop projects with minimum HUD approvals. This regulation also deregulates by eliminating some unnecessary HUD requirements and verbiage.

f) Technical Assistance by Outside Firm

The Department has awarded two technical assistance contracts (one in FY 1986 and one in FY 1987) to the National American Indian Housing Council (NAIHC) to provide intensive technical assistance to 11 seriously-troubled IHAs. These have been some improvements in the IHAs involved in the technical assistance program.

QUESTION #8: Would you elaborate on HUD's proposed consolidated separate Indian housing regulations which will provide a complete separate regulatory framework for the Indian housing program? Is it not better to have statutory authority for this separate regulatory framework?

ANSWER: HUD's consolidated Indian housing regulation will put in one place (24 CFR Part 905) all the public and Indian housing regulations affecting the Indian housing program. This includes subparts on development operations, CIAP, operating subsidy, modernization, demolition and disposition and Indian preference. Statutory authority has not been necessary to administer the program over the past 25 years. We believe the new regulatory framework will provide the necessary authority for HUD to continue successfully managing the Indian Housing Program.

QUESTION #9: Will your proposed regulation address the "homeless"situation on reservations?

ANSWER: The current Indian housing regulations address the homeless in that homeless families in Indian areas have been and can continue to be housed via the current programs. The new consolidated regulations continue this practice. Tribes are also eligible to apply for the various funds available under the McKinney Act.

QUESTION #10: If changes were made in S.1987 to incorporate the 1987 Housing and Community Development Amendments, would HUD support S. 1987 or its companion bill H.R. 3927?

ANSWER: No, because both bills add costs to the Indian Housing program, and lead to more generous treatment of families in Indian Housing than families in other assisted housing.

QUESTION #11: What is HUD doing to improve the Tri-Agency agreement with the Bureau of Indian Affairs (BIA) and the Indian Health Service:

ANSWER: HUD has initiated efforts with BIA and the Indian field offices to improve coordination in roads funding and planning. However, the issue of adequate funding for access roads to HUD-assisted projects should be provided by BIA. The agreement with IHS is working well at the present time.

QUESTION #12: Has HUD examined the problem of the lack of housing available to non-lower income Indian families on Indian reservations? Will your proposed regulations address this problem?

ANSWER: Yes, and many of the non-lower income families are already being served in the HUD Indian Housing program. This is because HUD has adjusted upward income limits for lower income families in reservation areas to an average $32,000 income and thereby already allows many non-lower income families to be served. The current regulations permit HUD to continue to make these adjustments in income limits in reservation areas because of the lack of alternative housing. Families above $32,000 can utilize the Indian FHA program; non-lower income families in Oklahoma can utilize FHA and other private sector housing.

The proposed consolidated regulations continue this practice. The current Indian Housing program does not propose to address all housing problems in Indian areas.

WHY S. 1987?

THE PUBLIC HOUSING PROGRAM ESTABLISHED BY THE HOUSING ACT OF 1937 SOUGHT TO DEVELOP A HOUSING PROGRAM THAT WOULD SERVE THE NATION'S LOW INCOME FAMILIES WHO WERE NOT ABLE TO AFFORD APARTMENTS AND HOMES THROUGH CONVENTIONAL MEANS.

A GREAT NUMBER OF UNITS WERE BUILT DURING THE NEXT 20 YEARS, PRIMARILY IN URBAN AREAS (CITIES) WHERE THE MAJORITY OF THE POPULACE RESIDED. THIS PROGRAM HOUSED INDIANS AS WELL, BUT ONLY IF THEY WERE LIVING IN THE CITY AND OFF THE RESERVATION.

RECOGNIZING THAT MOST INDIANS WERE NOT IN THESE CITIES, AN INDIAN HOUSING PROGRAM WAS ESTABLISHED IN 1962. THE FIRST UNITS BUILT ON THE RESERVATIONS WERE SINGLE FAMILY HOMES THAT WERE MOSTLY RENTAL UNITS AND SOME WERE WHAT IS NOW CALLED OLD MUTUAL HELP UNITS.

HOW WERE THESE UNITS BUILT? WHAT REGULATIONS WERE USED TO CALCULATE RENT, SIZE, DEDUCTIONS, AND SO FORTH? WHAT REGULATIONS ARE USED NOW TO RUN THIS PROGRAM?

THE PUBLIC HOUSING PROGRAM WAS THE BLUEPRINT FOR THE INDIAN HOUSING PROGRAM. WELL, WHY WOULD A PROGRAM THAT SERVES LITERALLY MILLIONS OF FAMILIES BE A PROBLEM IN INDIAN COUNTRY? WELL, ESSENTIALLY THIS IS THE FIRST CLUE: "INDIAN" AND SECOND "COUNTRY". LET'S EXAMINE THESE DIFFERENCES.

URBAN PUBLIC HOUSING PROGRAM	RURAL INDIAN HOUSING PROGRAM
1. 95% of all units are in urban, metropolitan areas.	1. 100% of all units are in rural reservation areas.
2. 60% of all unis are Section 8 vouchers--Landlords providing rental units receive housing subsidy toward rent.	2. -0- Section 8 vouchers can be used because there are no landlords with available units.
3. Subsidies are based on Fair market rents.	3. Fair market rent cannot be established on the reservation.
4. Water and sewer for low income units are tied into municipal systems which provide good water through proper treatment and monitoring.	4. Water and sewer in Indian housing consists of individual wells and septic systems. There are a variety of systems dealing with unmonitored water sources that are full of minerals or contaminents with no system of floridation.
5. Employment opportunities are greater in urban areas because of the high concentration of business and industry.	5. Employment opportunities are few. Most reservation breadwinners must go off the reservation to find gainful employment. Many Indians must pay to live near the job site and also for their home on the reservation.
6. Utilities used in public housing cost less because the amount of consumers using these utilities lower costs, especially near high industrial sites.	6. Utility cost on the reservation are at least triple the rate paid by the city dweller. There are fewer consumers and fewer industrial sites. Line charges to remote areas are very costly.

URBAN PUBLIC HOUSING PROGRAM	RURAL INDIAN HOUSING PROGRAM
7. Transportaiton is rapidly available to city dwellers be it used for employment, school, medical or recreational. Public transportaion is available to these low income families.	7. Because there is little or no public transportation available each Indian family must provide dollars to purchase and maintain private vehicles just to obtain food, transport children to school or designated school bus pick-up sites, medical care and to participate in community and recreational activities.
8. Public housing is centrally located and very often constructed as multi family structures.	8. Indian housing units are primarily on scattered sites with very few multi-family buildings.
9. Renters in cities are transient.	9. Residents on reservations are stationery.
10. Very few of the public housing units are homeownership units.	10. Over 50% of Indian Housing is made up of homeownership units.
11. Rental terms in public housing is month to month or annual leases.	11. Terms for homeownership is a 25-30 year committment.
12. Most care of the housing structure remains the responsibility of the landlord and management company.	12. Care of homeownership units for Indians is mandatory with IHS oversite.
13. Because there are more units available, overcrowdedness can be alleviated.	13. Because of limited units, overcrowded living conditions exist.
14. Public Housing is a melting pot of cultures and traditions and there is more of a mainstream attitide toward the recognition of these differences.	14. Culture and tradition play a relevant part in Indian society and is a recognizable part of every program including housing.

SO WHY S. 1987? MANY REGULATIONS GOVERNING THE INDIAN HOUSING PROGRAM ARE NOT IN STEP WITH INDIAN LIVES. THERE IS LITTLE INPUT IN RULE SETTING BY TRIBAL LEADERS, INDIAN HOUSING BOARD MEMBERS OR BY IHA DIRECTORS AND THEIR STAFFS. THE PEOPLE CLOSEST TO THE PEOPLE, CONTRIBUTE THE LEAST TO THESE PROGRAM REGULATIONS.

S. 1987 IS A STEP TOWARD THE RECOGNITION OF AN INDIAN CONTRIBUTION TO THIS HOUSING PROGRAM.

"THROUGHOUT THE 24 YEAR HISTORY OF THE INDAIN HOUSING PROGRAMS, THE SOLUTIONS TO PUBLIC HOUSING PROBLEMS HAVE ALSO BEEN DEEMED "SOLUTIONS" TO INDIAN HOUSING PROGRAMS." ALTHOUGH USUALLY WELL INTENDED, THE RESULTS IN MANY CASES WERE LESS THEN OPTIONAL. . A CASE IN POINT TO THIS EFFECT IS THE "BROOKE AMENDMENT" OF 1973. INTENDED TO INSURE THAT PUBLIC HOUSING TENANTS WOULD PAY RENT INCLUDING UTILITIES, MANAGEMENT AND MANAGMENT CHARGES, BASED ON ABILITY TO PAY, IT COMPLETELY IGNORED THE PLIGHT OF THE VERY POOREST INDIAN FAMILIES. THESE WERE THE FAMILIES PARTICIPATING IN THE MUTUAL HELP PROGRAM. FOR WHICH THERE IS NO COUNTERPART WITHIN PUBLIC HOUSING. AT A TIME WHEN THE "BROOKE AMENDMENT" AFFORDED ASSISTANCE TO RENTAL PROGRAM TENANTS FOR RENT PAYMENTS, MAINTENANCE, UTILITIES AND MODERNIZATION, THE POOREST INDIAN FAMILIES WERE LEFT WITH DEFINITE PAYMENTS, TOTAL UPKEEP AND MAINTENANCE, AND FULL RESPONSIBILITY FOR UTILITIES.

SINCE THE "BROOKE AMENDMENT" WAS STRUCTURED TOWARD PUBLIC HOUSING, ONE NEED NOT BE GIFTED WITH GREAT LOGIC TO CONCLUDE THNAT POSSIBLY THE PROGRAM DESIGN WAS/IS IN ERROR."\1

THERE HAS BEEN REVISIONS TO THE MUTUAL HELP PROGRAM IN 1976 AND THIS ESSENTIALLY IMPROVED THE PROGRAM. BUT WHAT HAPPENED TO THOSE FAMILIES DURING THAT 3 YEAR PERIOD? HOW MANY FAMILIES LOST THEIR MUTUAL HELP UNITS AS A RESULT OF THE "BROOKE AMENDMENT"?

S. 1987 IS A BILL THAT WILL CODIFY THE INDIAN HOUSING PROGRAM. IF PASSED INTO LAW, IT WILL PROVIDE THE VEHICLE WE NEED TO MONITOR OUR HOUSING PROGRAM, YOUR HOUSING PROGRAM, THE "INDIAN HOUSING PROGRAM".

ON BEHALF OF THE HOUSING COMMITTEE OF THE UNITED SOUTH & EASTERN TRIBES (USET), I URGE YOUR SUPPORT OF S. 1987.

\1 REPORT SECRETARY'S COMMITTEE, 1987

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